



## OHMVR COMMISSION MEETING Folsom, CA

May 17, 2013

**STAFF REPORT:** Legislation Update

**STAFF:** Tina L. Williams, Superintendent of Public Relations and Communications

**SUBJECT:** California and Federal Legislation

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### Summary

This report provides summary excerpts and status of bills that may affect the Off-Highway Motor Vehicle Recreation (OHMVR) Program. Information contained in this report is accurate as of May 6, 2013. Changes in status of some bills, or introduction of new bills, may occur between the date this report was prepared and the Commission meeting date.

### Discussion

#### CALIFORNIA LEGISLATION

##### **Assembly Bill 64 (Donnelly): AMENDED Recreational Off-Highway Vehicles**

**Summary:** An act to amend Sections 38603 and 38604 of the Vehicle Code, relating to vehicles.

- (1) Existing law establishes rules for the operation of off-highway vehicles, including specified requirements governing the operation of recreational off-highway vehicles. A violation of these rules and requirements is a crime. Existing law prohibits a person who is operating a recreational off-highway vehicle from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.

This bill would make these provisions applicable only to a recreational off-highway vehicle with a model year of 2014 or later. For vehicles with a model year of 2013 or earlier, the bill would allow seats that are installed in a separate seat location not designed and provided by the manufacturer for a passenger to be occupied if the occupant of the seat is fully contained inside of the vehicle's rollover protection structure at all times while the vehicle is being operated. Because a violation of the provisions would be a crime, this bill would impose a state-mandated local program.

- (2) Existing law prohibits a person from operating a recreational off-highway vehicle from riding with a passenger, unless the passenger, while seated upright with his or her back against the seatback, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened while seated upright.

This bill would define occupant handhold for these purposes, and would require occupant handholds to be designed to allow the recreational off-highway vehicle passenger to exit the vehicle without interference from the handholds. Because a violation of these provisions would be a crime, this bill would be enforceable on all State-wide programs.

- (3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

**Status:** Active – The bill was last amended on April 17, 2013. On May 1, 2013, the Assembly Appropriations Committee passed the bill as amended and sent the bill to the Consent Calendar.

### **Senate Bill 234 (Walters) AMENDED Recreational Off-Highway Vehicles**

**Summary:** An act to amend Sections 38603 and 38604 of the Vehicle Code, relating to recreational off-highway vehicles, and declaring the urgency of take effect immediately.

- (1) Existing law establishes rules for the operation of off-highway vehicles, including specified requirements governing the operation of recreational off-highway vehicles.

Existing law prohibits a person who is operating a recreational off-highway vehicle from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.

This bill would make these provisions applicable only to a recreational off-highway vehicle with a model year of 2014 or later. For vehicles with a model year of 2013 or earlier, the bill would allow seats that are installed in a separate seat location not designed and provided by the manufacturer for a passenger to be occupied if the occupant of the seat is fully contained inside of the vehicle's rollover protection structure at all times while the vehicle is being operated.

- (2) Existing law prohibits a person from operating a recreational off-highway vehicle from riding with a passenger, unless the passenger, while seated upright with his or her back against the seatback, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened while seated upright.

This bill would define occupant handhold for these purposes, and would require occupant handholds to be designed to allow the recreational off-highway vehicle passenger to exit the vehicle without interference from the handholds. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

- (3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

- (4) This bill would declare that it is to take effect immediately as an urgency statute. However, the provisions of the bill would become operative as specified.

**Status:** Active – The bill was amended on April 1, 2013. Urgency clause adopted on April 29, 2013; the bill is in Assembly. Read first time.

#### **Senate Bill 334 (Fuller): Recreational Off-highway Vehicles**

**Summary:** An act to amend Section 38603 of the Vehicle Code, relating to ROHVs, and declaring the urgency thereof to take effect immediately.

Existing law, effective on July 1, 2013, prohibits a person operating a ROHV from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger. This bill would instead make these provisions operative on January 1, 2015. This bill would declare that it is to take effect immediately as an urgency statute.

**Status:** Active – Set for first hearing on April 2, 2013. Hearing date cancelled at the request of author. The bill is with the Senate Committee on Transportation and Housing.

#### **Assembly Bill 150 (Olsen) AMENDED State Parks: Armed Services: Fee Waiver**

**Summary:** An act to add Section 5011.6 to the Public Resources Code, relating to State Parks.

This bill would require a veteran, as defined, or current active duty or reserve military personnel for the United States Armed Forces or the National Guard of any state, to be entitled to day use of any unit of the state park system on Memorial Day and Veterans Day if certain conditions are met, including that proper proof is supplied.

**Status:** Active – The bill was last amended on April 11, 2013. On May 1, 2013, the bill was referred to the Assembly Appropriations Committee.

#### **Senate Bill 151 (DeSaulnier). Vehicles: License Plates**

**Summary:** An act to repeal Section 5205 of the Vehicle Code, relating to vehicles.

- Existing law requires the Department of Motor Vehicles, upon registering a motor vehicle, to issue a license plate or plates to the owner of the vehicle to identify the vehicle for which the plates are issued for the period of their validity. The license plates are required to be attached to the vehicle for which they were issued, as specified, and to remain attached during the period of validity while the vehicle is being operated or held for sale within this state.
- Existing law authorizes the department to make appropriate rules and regulations for the use and display of stickers or devices issued in lieu of license plates, and to publish a summary thereof. This bill would repeal that latter provision.

**Status:** Active – The bill was last amended on April 30, 2013. On May 7, 2013, the bill was ordered to third reading to Senate Appropriations Committee.

### **Assembly Bill 315 (Committee on Veterans Affairs): State Park Passes for Veterans of War and Purple Heart Recipients**

**Summary:** An act to amend Section 5011.5 of the Public Resources Code.

This bill would make the recipient of a Purple Heart eligible for the pass. The bill further defines the terms “veteran” and “war” which are used to determine the eligibility of the pass recipient.

**Status:** Active – On May 1, 2013, the bill was referred to Assembly Appropriations Committee. The bill is set for first hearing.

### **Assembly Bill 594 (Committee on Water, Parks and Wildlife): AMENDED State Park Operating Agreements**

**Summary:** An act to amend Sections 541.5 and 5080.42 of the Public Resources Code, relating to State Parks.

- (1) Existing law requires the Department of Parks and Recreation to achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system.

This bill would instead state that it is the intent of the Legislature that the department consistently operates the state park system, as specified. This bill would state that it is the intent of the Legislature, if budget reductions necessitate changes to the continued operation of state park units, that the department achieve any required budget reductions by implementing efficiencies and increasing revenue collection or reducing services and that full park closures only be considered as a last option, as provided. The bill would require, for any park units proposed for closure on or after July 1, 2014, that the department document and publicly disclose, among other things, the methodology used to evaluate and select the park units proposed for closure.

Existing law requires the department to select park units for closure based on certain factors, including factors related to rate of visitation and proximity to other closed park units.

This bill would require that the rate of visitation be measured not only based on the raw number of visitations to the park unit, but also to the extent to which the total capacity of the park unit is used. The bill would eliminate the factor relating to significant operational efficiencies to be gained from closing a unit based on its proximity to other closed park units. In addition, the bill would add additional factors for consideration, including the extent to which closure of a unit would increase public safety hazards or impair the state's ability to protect iconic natural and historical resources.

The bill would require the State Parks and Recreation Commission to hold a public hearing on any park unit closures that are proposed by the department on or after July 1, 2014.

- (2) Existing law prohibits the department from closing or proposing to close a state park in the 2012-2013 or 2013-2014 fiscal year. Existing law authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the purposes of operating the entirety of a park unit, as identified by the director of the department, to the extent the operating agreement would enable the department to avoid closure of a unit or units of the state park system that may otherwise be subject to closure.

This bill would provide that the prohibition to close, or propose to close, a state park in the 2012-13 or 2013-14 fiscal year does not limit or affect the department's authority to enter into an operating agreement during the 2012-13 or 2013-14 fiscal year, for purposes of the operation of the entirety of a state park, as agreed to by the director, during the 2012-13 or 2013-14 fiscal year.

- (3) Existing law establishes the State Parks Revenue Incentive Subaccount in the State Parks and Recreation Fund. Existing law continuously appropriates moneys in the account to the department to create incentives for projects that are consistent with the mission of the department and generate revenue, as provided.

This bill would specify that projects referred to above include, but are not limited to, capitol outlay projects.

**Status:** Active – The bill was last amended on April 10, 2013. On May 8, 2013, hearing with Assembly Appropriations Committee.

**Assembly Bill 757 (Hernández): AMENDED Approval and tracking of out-of class assignments**

**Summary:** An act to add and repeal Section 11016.7 of the Government Code, relating to state government.

Existing law requires that state agencies, as defined, comply with statutes and regulations governing various aspects of their operation, including the adoption of policies and regulations, hiring, transactions, and compensation.

This bill would require the Department of Parks and Recreation to implement the recommendations regarding compensation for employees working in out-of-class assignments as identified in an audit by the Controller, and report to the Legislature.

**Status:** Active – The bill was last amended on May 2, 2013. On May 6, 2013, the bill was referred to the Assembly Appropriations Committee with recommendations to Consent Calendar.

### **Assembly Bill 988 (Jones): New Motor Vehicle Board: Recreational Off-Highway Dealers**

**Summary:** An act to amend Sections 285, 286, 296, 331.1, 331.2, 426, 672, 3051, 11701, 11704.5, 11710, and 11723 of the Vehicle Code, relating to ROHVs. Existing law defines a ROHV as a motor vehicle designed by the manufacturer for operation primarily off of the highway that has a steering wheel, non-straddle seating, a maximum speed capability of greater than 30 miles an hour, and an engine displacement equal to or less than 1,000cc.

- (1) This bill would include the activities and practices of ROHV dealers, manufacturers, manufacturer branches, distributors, distributor branches, or representatives within the scope of regulation by the board.
- (2) This bill would require these entities to make application to the Department of Motor Vehicles for a license, but would exempt them from the written examination and education program requirements.
- (3) The bill would require an applicant for a dealer's license for a dealer who deals exclusively in ROHVs to procure and file a bond with the department in the amount of \$10,000 before a license is issued or renewed.
- (4) The bill would also require the holders of these licenses and the dealers, manufacturers, manufacturer branches, distributors, distributor branches, and representatives to pay fees for the issuance and renewal of a license.

**Status:** Active – Set for first hearing on May 1, 2013. Referred to Assembly Appropriations Committee.

### **Senate Bill 241 (Evans): AMENDED Oil and Gas Tax**

**Summary:** An act to add Part 21 (commencing with Section 42001) to Division 2 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose an gas severance tax upon any operator, as defined, for the privilege of severing oil or gas from the earth or water in this state for sale, transport, consumption, storage, profit, or use, as provided, at the specified notes, calculated as provided. The tax would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would require the board to deposit all tax revenues, penalties, and interest collected pursuant to these provisions into the California Higher Education Fund, a continuously appropriated fund created by this bill, for allocation to the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the Department of Parks and Recreation, as provided.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, it would impose a state-mandated local program.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

**Status:** Active – The bill was last amended on April 24, 2013. Scheduled for Senate second reading on May 7, 2013.

**AB 1142 (Bloom): AMENDED State Beaches and Parks smoking ban.**

**Summary:** An act to add Section 5008.9 to the Public Resources Code, relating to State beaches and parks.

Existing law makes it an infraction for a person to smoke a cigarette, cigar, or other tobacco-related product within 25 feet of a playground or tot lot sandbox area.

This bill would make it an infraction for a person to smoke, as defined, a pipe, cigar, or cigarette on a state coastal beach or in a unit of the state park system, as defined. The bill would establish a state-mandated local program by creating a new crime.

This bill would require the Department of Parks and Recreation to develop and post signs at a state coastal beach or a unit of the state park system to provide notice of the smoking prohibition, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified

**Status:** Active – The bill was last amended on March 21, 2013. On May 6, 2013, passed as amended and re-refer to Assembly Committee on Appropriations.

## **FEDERAL LEGISLATION**

### **HR 1776 (Farr): Clear Creek National Recreation Area and Conservation Act**

**Summary:** U.S. Representatives Sam Farr (D-Carmel), David G. Valadao (R-Hanford), and Jeff Denham (R-Turlock) introduced H.R. 1776, the Clear Creek National Recreation Area and Conservation Act, which would direct the Bureau of Land Management (BLM) to reopen the Clear Creek Management Area (CCMA) for recreational use, including access for OHVs.

The establishment of the Clear Creek National Recreation Area would promote environmentally responsible high-quality motorized and non-motorized trail based recreation, including off-highway vehicle use, scenic touring, access for hunting and gem collecting, while protecting ecological, geological, scenic, cultural, and historic resources, fish and wildlife values, and other resources of the landscape. The Recreation Area would consist of approximately 75,000 acres of Federal land in San Benito County and Fresno County, California.

The bill instructs the BLM to develop a rigorous plan to minimize the risk from asbestos exposure and to educate visitors to the recreation area about the natural asbestos. The BLM would also be required to reduce the impact of OHVs to protect the area's habitat. The legislation would designate approximately 21,000 acres of BLM land adjacent to Clear Creek as the Joaquin Rocks Wilderness and designate five creek and river segments located outside the designated OHV zone as Wild and Scenic Rivers.

**Status:** Active – April 26, 2013 the bill was referred to the House Committee on Natural Resources.

## **Commission Action**

For Information Only

## **Attachments**

Updated bill information can be found at: <http://legiscan.com/>



AMENDED IN ASSEMBLY APRIL 17, 2013  
AMENDED IN ASSEMBLY FEBRUARY 7, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 64**

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**Introduced by Assembly Member Donnelly**

January 7, 2013

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An act to amend Sections ~~38601~~ and 38603 and 38604 of the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 64, as amended, Donnelly. Vehicles: recreational off-highway vehicles.

*(1) Existing law establishes rules for the operation of off-highway vehicles, including specified requirements governing the operation of recreational off-highway vehicles. A violation of these rules and requirements is a crime. Existing law prohibits a person who is operating a recreational off-highway vehicle from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.*

*This bill would make these provisions applicable only to a recreational off-highway vehicle with a model year of 2014 or later. For vehicles with a model year of 2013 or earlier, the bill would allow seats that are installed in a separate seat location not designed and provided by the manufacturer for a passenger to be occupied if the occupant of the seat is fully contained inside of the vehicle's rollover protection structure at all times while the vehicle is being operated. Because a violation of the provisions would be a crime, this bill would impose a state-mandated local program.*

(2) Existing law prohibits a person from operating a recreational off-highway vehicle from riding with a passenger, unless the passenger, while seated upright with his or her back against the seatback, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened while seated upright.

This bill would define occupant handhold for these purposes, and would require occupant handholds to be designed to allow the recreational off-highway vehicle passenger to exit the vehicle without interference from the handholds. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(1) Existing law establishes rules for the operation of off-highway vehicles, including specified requirements governing the operation of recreational off-highway vehicles. Existing law prohibits a person from allowing a passenger in a recreational off-highway vehicle unless the passenger is wearing a safety helmet.~~

~~This bill would provide that this prohibition does not apply to a passenger secured in a child safety seat.~~

~~(2) Existing law prohibits a person operating a recreational off-highway vehicle from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.~~

~~This bill would provide that this prohibition does not apply to any vehicle manufactured prior to January 1, 2014.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 38603 of the Vehicle Code is amended to  
2     read:

3     38603. (a) A person operating a recreational off-highway  
4     vehicle with a model year of 2014 or later shall not allow a

1 passenger to occupy a separate seat location not designed and  
2 provided by the manufacturer for a passenger.

3 *(b) Seats that are installed in a separate seat location not*  
4 *designed and provided by the manufacturer for a passenger in*  
5 *vehicles with model year of 2013 or earlier may be occupied by a*  
6 *passenger if the occupant of the seat is fully contained inside of*  
7 *the vehicle's rollover protection structure at all times while the*  
8 *vehicle is being operated.*

9 ~~(b) This section shall become operative on July 1, 2013.~~

10 SEC. 2. *Section 38604 of the Vehicle Code is amended to read:*

11 38604. (a) A person operating a recreational off-highway  
12 vehicle shall not ride with a passenger, unless the passenger, while  
13 seated upright with his or her back against the seatback, can grasp  
14 the occupant handhold with the seatbelt and shoulder belt or safety  
15 harness properly fastened.

16 (b) *For purposes of this chapter, "occupant handhold" means*  
17 *any factory or aftermarket device grasped by an occupant to*  
18 *provide support and to assist in keeping arms and hands within*  
19 *the recreational off-highway vehicle. The steering wheel shall be*  
20 *considered an occupant handhold for the recreational off-highway*  
21 *vehicle operator.*

22 (c) *Occupant handholds shall be designed to allow the*  
23 *recreational off-highway vehicle passenger to exit the vehicle*  
24 *without interference from the handholds.*

25 SEC. 3. *No reimbursement is required by this act pursuant to*  
26 *Section 6 of Article XIII B of the California Constitution because*  
27 *the only costs that may be incurred by a local agency or school*  
28 *district will be incurred because this act creates a new crime or*  
29 *infraction, eliminates a crime or infraction, or changes the penalty*  
30 *for a crime or infraction, within the meaning of Section 17556 of*  
31 *the Government Code, or changes the definition of a crime within*  
32 *the meaning of Section 6 of Article XIII B of the California*  
33 *Constitution.*

34 SEC. 4. *This act shall become operative on July 1, 2013.*

35 SECTION 1. ~~Section 38601 of the Vehicle Code is amended~~  
36 ~~to read:~~

37 ~~38601. (a) A person shall not operate, or allow a passenger~~  
38 ~~in, a recreational off-highway vehicle unless the person and the~~  
39 ~~passenger are wearing safety helmets meeting the requirements~~

1 ~~established for motorcycles and motorized bicycles pursuant to~~  
2 ~~Section 27802.~~

3 ~~(b) This section shall not apply to a passenger secured in a child~~  
4 ~~safety seat.~~

5 ~~SEC. 2. Section 38603 of the Vehicle Code is amended to read:~~

6 ~~38603. (a) A person operating a recreational off-highway~~  
7 ~~vehicle shall not allow a passenger to occupy a separate seat~~  
8 ~~location not designed and provided by the manufacturer for a~~  
9 ~~passenger.~~

10 ~~(b) This section shall not apply to any vehicle manufactured~~  
11 ~~prior to January 1, 2014.~~

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 234**

**Introduced by Senator Walters**  
*(Coauthors: Senators Fuller and Hueso)*

February 12, 2013

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An act to amend Sections ~~38601 and 38603 and 38604~~ of, ~~and to repeal Section 38604 of~~, the Vehicle Code, relating to recreational off-highway vehicles, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 234, as amended, Walters. Recreational off-highway vehicles.

(1) Existing law establishes rules for the operation of off-highway vehicles, including specified requirements governing the operation of recreational off-highway vehicles. Existing law prohibits a person ~~from allowing a passenger in a recreational off-highway vehicle unless the passenger is wearing a safety helmet.~~

~~This bill would make this prohibition inapplicable to a child who is secured in an appropriate child passenger restraint system meeting specified requirements.~~

~~(2) Existing law prohibits a person who is operating a recreational off-highway vehicle from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.~~

This bill would make these provisions applicable only to a recreational off-highway vehicle with a model year of 2014 or later. For vehicles with a model year of 2013 or earlier, the bill would allow seats that are installed in a separate seat location not designed and provided by the manufacturer for a passenger to be occupied if the occupant of the seat

is fully contained inside of the vehicle's rollover protection structure at all times while the vehicle is being operated.

(3)

(2) Existing law prohibits a person from operating a recreational off-highway vehicle from riding with a passenger, unless the passenger, while seated upright with his or her back against the seatback, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened while seated upright.

*This bill would ~~repeal these provisions~~ define occupant handhold for these purposes, and would require occupant handholds to be designed to allow the recreational off-highway vehicle passenger to exit the vehicle without interference from the handholds. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.*

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

(4) *This bill would declare that it is to take effect immediately as an urgency statute.*

*However, the provisions of the bill would become operative as specified.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 38601 of the Vehicle Code is amended~~  
 2     ~~to read:~~  
 3     ~~38601. (a) A person shall not operate, or allow a passenger~~  
 4     ~~in, a recreational off-highway vehicle unless the person and the~~  
 5     ~~passenger are wearing safety helmets meeting the requirements~~  
 6     ~~established for motorcycles and motorized bicycles pursuant to~~  
 7     ~~Section 27802.~~  
 8     ~~(b) Subdivision (a) does not apply to a child who is secured in~~  
 9     ~~an appropriate child passenger restraint system meeting the~~  
 10    ~~requirements of Article 3.3 (commencing with Section 27360) of~~  
 11    ~~Chapter 5 of Division 12.~~

~~SEC. 2.~~

*SECTION 1.* Section 38603 of the Vehicle Code is amended to read:

38603. (a) A person operating a recreational off-highway vehicle with a model year of 2014 or later shall not allow a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.

(b) Seats that are installed in a separate seat location not designed and provided by the manufacturer for a passenger in vehicles with model year of 2013 or earlier may be occupied by a passenger if the occupant of the seat is fully contained inside of the vehicle's rollover protection structure at all times while the vehicle is being operated.

~~SEC. 3.—Section 38604 of the Vehicle Code is repealed.~~

*SEC. 2.* Section 38604 of the Vehicle Code is amended to read:

38604. (a) A person operating a recreational off-highway vehicle shall not ride with a passenger, unless the passenger, while seated upright with his or her back against the seatback, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened.

(b) For purposes of this chapter, "occupant handhold" means any factory or aftermarket device grasped by an occupant to provide support and to assist in keeping arms and hands within the recreational off-highway vehicle. The steering wheel shall be considered an occupant handhold for the recreational off-highway vehicle operator.

(c) Occupant handholds shall be designed to allow the recreational off-highway vehicle passenger to exit the vehicle without interference from the handholds.

*SEC. 3.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

*SEC. 4.* This act shall become operative on July 1, 2013.

1     *SEC. 5. This act is an urgency statute necessary for the*  
2     *immediate preservation of the public peace, health, or safety within*  
3     *the meaning of Article IV of the Constitution and shall go into*  
4     *immediate effect. The facts constituting the necessity are:*  
5     *In order to allow sufficient time to implement recently enacted*  
6     *provisions of law regarding recreational off-highway vehicles, it*  
7     *is necessary that this act take effect immediately.*



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**Introduced by Senator Fuller**

February 19, 2013

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An act to amend Section 38603 of the Vehicle Code, relating to recreational off-highway vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 334, as introduced, Fuller. Recreational off-highway vehicles: seat location: passengers.

Existing law, operative on July 1, 2013, prohibits a person operating a recreational off-highway vehicle from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.

This bill would instead make these provisions operative on January 1, 2015.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 38603 of the Vehicle Code is amended
- 2 to read:
- 3 38603. (a) A person operating a recreational off-highway
- 4 vehicle shall not allow a passenger to occupy a separate seat
- 5 location not designed and provided by the manufacturer for a
- 6 passenger.

1 (b) This section shall become operative on ~~July 1, 2013~~ *January*  
2 *1, 2015*.

3 SEC. 2. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety within  
5 the meaning of Article IV of the Constitution and shall go into  
6 immediate effect. The facts constituting the necessity are:

7 In order to allow sufficient time to implement recently enacted  
8 provisions of law regarding recreational off-highway vehicles, it  
9 is necessary that this act take effect immediately.

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AMENDED IN ASSEMBLY APRIL 11, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

AMENDED IN ASSEMBLY MARCH 13, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 150**

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**Introduced by Assembly Member Olsen**

**(Coauthors: Assembly Members Achadjian, Bigelow, Chávez,  
Beth Gaines, Gorell, Grove, Harkey, Maienschein, Patterson,  
V. Manuel Pérez, Salas, and Wagner)**

**(Coauthors: Senators Cannella, Fuller, Gaines, and Huff, Nielsen, and  
Padilla)**

January 18, 2013

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An act to add Section 5011.6 to the Public Resources Code, relating to state parks.

### LEGISLATIVE COUNSEL'S DIGEST

AB 150, as amended, Olsen. State parks: armed services: fee waiver.

Existing law requires certain veterans of a war in which the United States is or has been engaged, upon application and presentation to the Department of Parks and Recreation of certain proof, including proof of a disability or proof of being held captive as a prisoner of war, to be issued a pass entitling the bearer use of all facilities, including boat launching facilities, in units of the state park system.

This bill would require a veteran, as defined, or current active duty *or reserve* military personnel for the United States Armed Forces *or the National Guard of any state*, to be entitled to day use of any unit of the state park system on Memorial Day and Veterans Day if certain conditions are met, including that proper proof is supplied.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 5011.6 is added to the Public Resources  
2     Code, to read:  
3     5011.6. Notwithstanding Section 5011.5, a veteran, as defined  
4     in Section 980 of the Military and Veterans Code, ~~or current active~~  
5     ~~duty, or an active duty or reserve military personnel for the United~~  
6     ~~States Armed Forces; or the National Guard of any state,~~ shall be  
7     entitled to day use of any unit of the state park system on Memorial  
8     Day and Veterans Day if ~~both of the following conditions are met:~~  
9     ~~(a) The the~~ veteran can provide proof of current military  
10    ~~identification, or proof of honorable discharge or general discharge~~  
11    ~~under honorable conditions other than dishonorable or bad~~  
12    ~~conduct, or the active duty military personnel or reserve military~~  
13    ~~personnel of the Armed Forces or the National Guard can provide~~  
14    current military identification.  
15    ~~(b) The veteran or active duty military personnel resides in~~  
16    ~~California.~~

**Introduced by Senator DeSaulnier**January 31, 2013

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An act to repeal Section 5205 of the Vehicle Code, relating to vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 151, as introduced, DeSaulnier. Vehicles: license plates.

Existing law requires the Department of Motor Vehicles, upon registering a motor vehicle, to issue a license plate or plates to the owner of the vehicle to identify the vehicle for which the plates are issued for the period of their validity. The license plates are required to be attached to the vehicle for which they were issued, as specified, and to remain attached during the period of validity while the vehicle is being operated or held for sale within this state. Existing law authorizes the department to make appropriate rules and regulations for the use and display of stickers or devices issued in lieu of license plates, and to publish a summary thereof.

This bill would repeal that latter provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 5205 of the Vehicle Code is repealed.
- 2 ~~5205. The department may make appropriate rules and~~
- 3 ~~regulations for the use and display of stickers or devices issued in~~
- 4 ~~lieu of license plates, and shall publish a summary thereof.~~

O

**ASSEMBLY BILL**

**No. 315**

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**Introduced by Committee on Veterans Affairs**

February 12, 2013

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An act to amend Section 5011.5 of the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 315, as introduced, Committee on Veterans Affairs. State parks: veteran of war: Purple Heart recipient.

Existing law requires the Department of Parks and Recreation to issue a park pass for use of all park facilities in the state park system to a veteran of war in which the United States has been, or may be, engaged who is a resident of this state, who presents to the department proof of a disability, proof of being held captive as a prisoner of war, or proof of being a recipient of a Congressional Medal of Honor, as provided.

This bill would make the recipient of a Purple Heart eligible for the pass.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 5011.5 of the Public Resources Code is
- 2     amended to read:
- 3     5011.5. (a) A veteran of a war in which the United States has
- 4     been, or may be engaged, who is a resident of this state, upon
- 5     presentation to the department of proof of disability, proof of being
- 6     held captive as a prisoner of war, or proof of being a recipient of

1 a Congressional Medal of Honor *or a Purple Heart*, and proof of  
2 an honorable discharge from service, upon application therefor,  
3 shall be issued a pass entitling the bearer to the use of all facilities,  
4 including boat launching facilities, in units of the state park system.

5 (b) As used in this section:

6 (1) “Veteran” means a former member of the Armed Forces of  
7 the United States who has a 50 percent or greater service-connected  
8 disability, or who was held as a prisoner of war by forces hostile  
9 to the United States, as certified by the United States Department  
10 of Veterans Affairs, and who was honorably discharged from  
11 service.

12 (2) “War” means that period of time commencing when  
13 Congress declares war or when the Armed Forces of the United  
14 States are engaged in active military operations against a foreign  
15 power, whether or not war has been formally declared, and ending  
16 upon the termination of hostilities as proclaimed by the President  
17 of the United States.

AMENDED IN ASSEMBLY APRIL 10, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 594**

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**Introduced by Assembly Member Hueso** *Committee on Water, Parks and Wildlife (Assembly Members Rendon (Chair), Allen, Bigelow, Blumenfield, Bocanegra, Dahle, Fong, Frazier, Beth Gaines, Gatto, Patterson, and Yamada)*  
(Principal coauthor: Senator Hueso)

February 20, 2013

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An act to amend Sections 541.5, 5007, 5010.6, and 5080.42 of the Public Resources Code, relating to state parks.

### LEGISLATIVE COUNSEL'S DIGEST

AB 594, as amended, ~~Hueso~~ *Committee on Water, Parks and Wildlife*.  
State parks: operating agreements: park closures.

(1) Existing law requires the Department of Parks and Recreation to achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system.

This bill would instead state that it is the intent of the Legislature that the department consistently operate the state park system, as specified. This bill would state that it is the intent of the Legislature, if budget reductions necessitate changes to the continued operation of state park units, that the department achieve any required budget reductions by implementing efficiencies and increasing revenue collection or reducing services and that full park closures only be considered as a last option, as provided. The bill would require, for any park units proposed for closure on or after July 1, 2014, that the department document and



publicly disclose, among other things, the methodology used to evaluate and select the park units proposed for closure.

Existing law requires the department to select park units for closure based on certain factors, including factors related to rate of visitation and proximity to other closed park units.

This bill would require that the rate of visitation be measured not only based on the raw number of visitations to the park unit, but also to the extent to which the total capacity of the park unit is used. The bill would eliminate the factor relating to significant operational efficiencies to be gained from closing a unit based on its proximity to other closed park units. In addition, the bill would add additional factors for consideration, including the extent to which closure of a unit would increase public safety hazards or impair the state's ability to protect iconic natural and historical resources.

The bill would require the State Parks and Recreation Commission to hold a public hearing on any park unit closures that are proposed by the department on or after July 1, 2014.

(2) Existing law prohibits the department from closing or proposing to close a state park in the 2012–2013 or 2013–2014 fiscal year. Existing law authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the purposes of operating the entirety of a park unit, as identified by the director of the department, to the extent the operating agreement would enable the department to avoid closure of a unit or units of the state park system that may otherwise be subject to closure.

This bill would provide that the prohibition to close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year does not limit or affect the department's authority to enter into an operating agreement during the 2012–13 or 2013–14 fiscal year, for purposes of the operation of the entirety of a state park, as agreed to by the director, during the 2012–13 or 2013–14 fiscal year.

(3) Existing law establishes the State Parks Revenue Incentive Subaccount in the State Parks and Recreation Fund. Existing law continuously appropriates moneys in the account to the department to create incentives for projects that are consistent with the mission of the department and generate revenue, as provided.

This bill would specify that projects referred to above include, but are not limited to, capitol outlay projects.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 541.5 of the Public Resources Code is  
2 amended to read:

3     541.5. (a) The department shall not close, or propose to close,  
4 a state park in the 2012–13 or 2013–14 fiscal year. The commission  
5 and the department shall recommend all necessary steps to establish  
6 a sustainable funding strategy for the department to the Legislature  
7 on or before January 1, 2015.

8     (b) There is hereby appropriated twenty million five hundred  
9 thousand dollars (\$20,500,000) to the department from the State  
10 Parks and Recreation Fund, which shall be available for  
11 encumbrance for the 2012–13 and 2013–14 fiscal years, to be  
12 expended as follows:

13     (1) Ten million dollars (\$10,000,000) shall be available to  
14 provide for matching funds pursuant to subdivision (c).

15     (2) Ten million dollars (\$10,000,000) shall be available for the  
16 department to direct funds to parks that remain at risk of closure  
17 or that will keep parks open during the 2012–13 and 2013–14 fiscal  
18 years. Priority may be given to parks subject to a donor or operating  
19 agreement or other contractual arrangement with the department.

20     (3) Up to five hundred thousand dollars (\$500,000) shall be  
21 available for the department to pay for ongoing audits and  
22 investigations as directed by the Joint Legislative Audit Committee,  
23 the office of the Attorney General, the Department of Finance, or  
24 other state agency.

25     (c) The department shall match on a dollar-for-dollar basis all  
26 financial contributions contributed by a donor pursuant to an  
27 agreement for the 2012–13 fiscal year for which the department  
28 received funds as of July 31, 2013, and for agreements entered  
29 into in the 2013–14 fiscal year. These matching funds shall be  
30 used exclusively in the park unit subject to those agreements.

31     (d) The department shall notify the Joint Legislative Budget  
32 Committee in writing not less than 30 days prior to the expenditure  
33 of funds under this section of the funding that shall be expended,  
34 the manner of the expenditure, and the recipient of the expenditure.

35     (e) The prohibition to close, or propose to close, a state park in  
36 the 2012–13 or 2013–14 fiscal year, pursuant to paragraph (a),  
37 does not limit or affect the department’s authority to enter into an  
38 operating agreement, pursuant to Section 5080.42, during the

1 2012–13 or 2013–14 fiscal year, for purposes of the operation of  
2 the entirety of a state park during the 2012–13 or 2013–14 fiscal  
3 year.

4 SEC. 2. Section 5007 of the Public Resources Code is amended  
5 to read:

6 5007. (a) It is the intent of the Legislature that the department  
7 consistently operate the state park system to preserve public access  
8 and provide protection of natural, cultural, and historic resources.  
9 If budget reductions necessitate changes to the continued operation  
10 of state park units, it is the intent of the Legislature that the  
11 department achieve required budget reductions by implementing  
12 efficiencies and increasing revenue collection, or reducing services  
13 at selected units of the state park system, and that full park closures  
14 only be considered as a last option to address required budget  
15 reductions after all other feasible alternatives, including, but not  
16 limited to, entering into operating agreements with qualified  
17 nonprofit entities and local governments have been explored.

18 (b) For any park unit proposed for closure on or after July 1,  
19 2014, the department shall document and publicly disclose the  
20 methodology, rationale, and scoring system used to evaluate and  
21 select park units proposed for closure, and shall select any units  
22 proposed to be closed based solely on all of the following factors:

23 (1) The relative statewide significance of each park unit,  
24 preserving to the extent possible, parks identified in the  
25 department's documents including "Outstanding and  
26 Representative Parks," the "California State History Plan," and  
27 the "California State Parks Survey of 1928."

28 (2) The rate of visitation to each unit, to minimize impacts to  
29 visitation in the state park system. Visitation shall be measured  
30 not only based on the raw number of visitations to the unit, but  
31 also to the extent that the total capacity of the unit is used.

32 (3) (A) The estimated net savings from closing each unit, to  
33 maximize savings to the state park system.

34 (B) For purposes of this subdivision, "net savings" means the  
35 estimated costs of operation for the unit less the unit's projected  
36 revenues and less the costs of maintaining the unit after it is closed.

37 (4) The feasibility of physically closing each unit.

38 (5) The existence of, or potential for, partnerships that can help  
39 support each unit, including public and nonprofit partners and  
40 concessions.

1 (6) Significant and costly infrastructure deficiencies affecting  
2 key systems at each unit so that continued operation of the unit is  
3 less cost effective relative to other units.

4 (7) Recent or funded infrastructure investments at a unit.

5 (8) Necessary but unfunded capital investments at a unit.

6 (9) Deed restrictions and grant requirements applicable to each  
7 unit.

8 (10) The extent to which there are substantial dedicated funds  
9 for the support of the unit that are not appropriated from the  
10 General Fund.

11 (11) The extent to which the closure of a park unit would impact  
12 local and regional economies, or disproportionately impact one  
13 region of the state over another.

14 (12) The extent to which the closure of a park unit would limit  
15 availability of facilities that are compliant with the Americans with  
16 Disabilities Act of 1990 and subsequent amendments to the act.

17 (13) The extent to which closure of a park unit would impair  
18 firefighter access to water resources or otherwise increase fire risk.

19 (14) The extent to which closure of a park unit would increase  
20 public safety hazards or impair the state's ability to protect iconic  
21 natural and historical resources.

22 (c) The commission shall hold a public hearing on any park unit  
23 closures that are proposed by the department on or after July 1,  
24 2014, and information gathered at the hearing shall be considered  
25 by the department before any final ~~decisions~~ *decision* regarding  
26 ~~proposed the proposed closure of a park unit closures.~~

27 (d) Notwithstanding Division 3.6 (commencing with Section  
28 810) of Title 1 of the Government Code, a public entity or a public  
29 employee is not liable for injury or damage caused by a condition  
30 of public property located in, or injury or damage otherwise  
31 occurring in, or arising out of an activity in, a state park system  
32 unit that is designated as closed by the department pursuant to  
33 subdivision (a), except for conduct that constitutes gross negligence  
34 or is wanton or reckless. This immunity shall apply notwithstanding  
35 the fact that the public has access, whether invited or uninvited,  
36 to the state park system unit, and notwithstanding that the  
37 department may take actions such as patrols, inspections,  
38 maintenance, and repairs necessary to protect the state park system  
39 unit facilities and resources from deterioration, damage, or  
40 destruction. This immunity shall apply only to units of the state

1 park system that are designated as closed pursuant to subdivision  
2 (a) and shall not apply to units that are partially closed or subject  
3 to service reductions but not closure. The closed units shall be  
4 maintained in a list by the department and the list shall be made  
5 publicly available and posted on the department's Internet Web  
6 site. The list shall include the date the unit is considered closed.  
7 The immunity provided by this subdivision does not limit any  
8 other immunity or immunities available to a public entity or a  
9 public employee. The governmental immunity provided in this  
10 section does not apply to a third party or entity that has reopened  
11 a park listed as closed pursuant to subdivision (a). The immunity  
12 shall continue to apply to the state.

13 SEC. 3. Section 5010.6 of the Public Resources Code is  
14 amended to read:

15 5010.6. (a) For purposes of this section, "subaccount" means  
16 the State Parks Revenue Incentive Subaccount created pursuant  
17 to this section.

18 (b) The State Parks Revenue Incentive Subaccount is hereby  
19 created within the State Parks and Recreation Fund and the  
20 Controller shall annually transfer fifteen million three hundred  
21 forty thousand dollars (\$15,340,000) from the State Parks and  
22 Recreation Fund to the subaccount.

23 (c) Notwithstanding Section 13340 of the Government Code,  
24 the funds in the subaccount are hereby continuously appropriated  
25 to the department to create incentives for projects, including, but  
26 not limited to, capitol outlay projects, that are consistent with the  
27 mission of the department and that generate revenue, except the  
28 department shall not expend from the subaccount more than eleven  
29 million dollars (\$11,000,000) annually pursuant to Section 5003.

30 (d) The Office of State Audits and Evaluations shall review the  
31 activities funded from the subaccount pursuant to subdivision (c)  
32 to ensure appropriate internal controls are in place. The department  
33 shall reimburse the Office of State Audits and Evaluations from  
34 the subaccount for any costs related to the review.

35 (e) The revenue generated from projects funded by the  
36 subaccount shall be deposited in the subaccount and are  
37 continuously appropriated for expenditure by the department in  
38 accordance with the following:

1 (1) At least 50 percent of the revenue generated shall be  
2 expended in the district of the department that earned that revenue,  
3 as an incentive for revenue generation.

4 (2) The remaining revenue may be expended by the department  
5 pursuant to subdivision (c), including, but not limited to, for  
6 expenditure pursuant to Section 5003.

7 (f) The funds in the subaccount shall be available for  
8 encumbrance and expenditure until June 30, 2014, and for  
9 liquidation until June 30, 2016.

10 (g) This section shall become inoperative on June 30, 2016,  
11 and, as of January 1, 2017, is repealed, unless a later enacted  
12 statute, that becomes operative on or before January 1, 2017,  
13 deletes or extends the dates on which it becomes inoperative and  
14 is repealed.

15 SEC. 4. Section 5080.42 of the Public Resources Code is  
16 amended to read:

17 5080.42. (a) Notwithstanding any other provision of this  
18 article, the department may enter into an operating agreement with  
19 a qualified nonprofit organization for the development,  
20 improvement, restoration, care, maintenance, administration, or  
21 operation of a unit or units, or portion of a unit, of the state park  
22 system, as agreed to by the director. If the department enters into  
23 an operating agreement that involves the operation of the entirety  
24 of a park unit, that agreement may be entered into pursuant to this  
25 section only to the extent that the agreement would enable the  
26 department to avoid closure of a unit or units of the state park  
27 system that may otherwise be subject to closure. The prohibition  
28 on park closures, pursuant to subdivision (a) of Section 541.5, does  
29 not limit the department's authority to enter into an operating  
30 agreement pursuant to this section, as provided in subdivision (e)  
31 of Section 541.5. The department may only enter into an operating  
32 agreement that involves the operation of the entirety of a park unit  
33 for no more than 20 park units. An operating agreement with a  
34 qualified nonprofit organization shall include, but shall not be  
35 limited to, the following conditions:

36 (1) The district superintendent for the department shall provide  
37 liaison with the department, the nonprofit organization, and the  
38 public.

39 (2) The nonprofit organization shall annually submit a written  
40 report to the department regarding its operating activities during

1 the prior year and shall make copies of the report available to the  
2 public upon request. The report shall be available on the Internet  
3 Web sites of both the department and the nonprofit organization.  
4 The report shall include a full accounting of all revenues and  
5 expenditures for each unit of the state park system that the  
6 nonprofit organization operates pursuant to an operating agreement.

7 (3) (A) Except as provided in subparagraph (B), all revenues  
8 that the qualified nonprofit organization receives from a unit shall  
9 be expended only for the care, maintenance, operation,  
10 administration, improvement, or development of the unit. The  
11 qualified nonprofit organization may additionally contribute in-kind  
12 services and funds raised from outside entities for the care,  
13 maintenance, operation, administration, improvement, or  
14 development of the unit.

15 (B) If the qualified nonprofit organization determines that the  
16 revenues it has received from a unit are in excess of the revenues  
17 that are needed for the care, maintenance, operation, administration,  
18 improvement, or development of that unit, and that these funds  
19 are not already specified for or committed to specific purposes  
20 pursuant to an existing agreement or contract restricting the use  
21 of those funds, the qualified nonprofit organization may dedicate  
22 those excess revenues to another state park unit for that unit's care,  
23 maintenance, operation, administration, improvement, or  
24 development.

25 (4) General Fund moneys shall not be provided to a nonprofit  
26 organization to subsidize the operation or maintenance of a park  
27 unit. This paragraph applies to state parks, the full operation of  
28 which are turned over to a nonprofit organization, but does not  
29 apply to or preclude the department from entering into agreements  
30 with nonprofit organizations to operate a portion of a state park  
31 unit, or from entering into comanagement agreements with  
32 nonprofit organizations that involve the sharing of operational and  
33 financial responsibilities for the park unit and that have the effect  
34 of reducing state costs. This paragraph does not apply to park  
35 entrance fees, concession revenues, or any other revenues generated  
36 within a park operated by a nonprofit organization pursuant to this  
37 section.

38 (b) An operating agreement entered into pursuant to subdivision  
39 (a) shall honor the existing term of a current concession contract  
40 for the state park unit subject to the operating agreement.

1 (c) An operating agreement entered into pursuant to subdivision  
2 (a) shall specify the duties that the nonprofit organization shall be  
3 responsible for carrying out relative to management and protection  
4 of natural, historical, and cultural resources, and shall identify  
5 those management duties that shall continue to be conducted by  
6 the department, so that all core operations of the park are  
7 delineated. Scientific, architectural, and engineering functions that  
8 require special expertise or professional training shall only be  
9 conducted by or under the supervision of qualified persons with  
10 applicable expertise or training and subject to oversight by the  
11 department.

12 (d) This section does not supersede the requirements of Section  
13 5019.53 regarding the protection of natural, scenic, cultural, and  
14 ecological values.

15 (e) The nonprofit organization and the district superintendent  
16 for the department shall, following submittal of the annual report  
17 pursuant to subdivision (a), hold a joint public meeting for  
18 discussion of the report.

19 (f) If the department intends to enter into an operating agreement  
20 for the development, improvement, restoration, care, maintenance,  
21 administration, or operation of a unit or units, or a portion of a  
22 unit, the department shall notify the Member of the Legislature in  
23 whose district the unit is located, the Chair of the Senate Committee  
24 on Natural Resources and Water, the Chair of the Assembly  
25 Committee on Water, Parks and Wildlife, and the chairs of the  
26 Assembly and Senate budget committees of that intention. The  
27 notification shall include estimated operating costs and revenues  
28 and core duties and responsibilities that are likely to be assigned  
29 to the nonprofit organization and the department.

30 (g) For purposes of this section, a qualified nonprofit  
31 organization is an organization that is all of the following:

32 (1) An organization that is exempt from taxation pursuant to  
33 Section 501(c)(3) of the Internal Revenue Code.

34 (2) An organization that has as its principal purpose and activity  
35 to provide visitor services in state parks, facilitate public access  
36 to park resources, improve park facilities, provide interpretive and  
37 educational services, or provide direct protection or stewardship  
38 of natural, cultural, or historical lands, or resources.

39 (3) An organization that is in compliance with the Supervision  
40 of Trustees and Fundraisers for Charitable Purposes Act, Article



1 7 (commencing with Section 12580) of Chapter 6 of Part 2 of  
2 Division 3 of Title 2 of the Government Code.

3 (h) (1) Notwithstanding Section 10231.5 of the Government  
4 Code, the department shall provide a report to the Legislature, on  
5 a biennial basis, of the status of operating agreements it has entered  
6 into pursuant to this section. The report shall include a list of units  
7 of the state park system with operating agreements, discussion of  
8 the management and operations of each unit subject to an operating  
9 agreement, an accounting of the revenues and expenditures incurred  
10 under each operating agreement, and an assessment of the benefit  
11 to the state from operating agreements entered into pursuant to  
12 this section.

13 (2) A report submitted pursuant to paragraph (1) shall be  
14 submitted in compliance with Section 9795 of the Government  
15 Code.

16 (i) This section shall remain in effect only until January 1, 2019,  
17 and as of that date is repealed, unless a later enacted statute, that  
18 is enacted before January 1, 2019, deletes or extends that date.

AMENDED IN ASSEMBLY MAY 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 757**

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**Introduced by Assembly Member Roger Hernández**

February 21, 2013

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An act to add and repeal Section 11016.7 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 757, as amended, Roger Hernández. Department of Parks and Recreation: regulations.

Existing law ~~provides~~ *requires* that state agencies, as defined, comply with statutes and regulations governing various aspects of their operation, including the adoption of policies and regulations, hiring, transactions, and compensation.

This bill would require the Department of Parks and Recreation to ~~adopt regulations by July 31, 2014, that would address specified issues implement the recommendations regarding the approval and tracking of compensation for~~ employees working in out-of-class assignments as identified in an audit by the Controller, and report to the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11016.7 is added to the Government
- 2 Code, to read:
- 3 11016.7. (a) ~~(1)~~—The Department of Parks and Recreation
- 4 shall, by July 1, 2014, ~~adopt regulations implementing, implement,~~

1 to the extent practicable, policy recommendations in subdivision  
2 (b) as emergency regulations in accordance with the Administrative  
3 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
4 Part 1 of Division 3 of Title 2 of the Government Code). For the  
5 purposes of the Administrative Procedure Act, the adoption of the  
6 regulations shall be deemed an emergency and necessary for the  
7 immediate preservation of the public peace, health and safety, or  
8 general welfare. Notwithstanding Chapter 3.5 (commencing with  
9 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
10 Code, these emergency regulations shall not be subject to the  
11 review and approval of the Office of Administrative Law.

12 (2) ~~Notwithstanding subdivision (h) of Section 11346.1 and~~  
13 ~~Section 11349.6 of the Government Code, the department shall~~  
14 ~~transmit these regulations directly to the Secretary of State for~~  
15 ~~filing. The regulations shall become effective immediately upon~~  
16 ~~filing by the Secretary of State.~~

17 (3) ~~Except as otherwise provided for by Section 10554, the~~  
18 ~~Office of Administrative Law shall provide for the printing and~~  
19 ~~publication of these regulations in the California Code of~~  
20 ~~Regulations.~~

21 (b) ~~The contained in the State Controller's Payroll Review~~  
22 ~~Report of the Department of Parks and Recreation dated December~~  
23 ~~18, 2012. The Controller listed the following policy suggestions~~  
24 ~~regarding compensation for employees working in out-of-class~~  
25 ~~assignments in its audit of the Department of Parks and Recreation~~  
26 ~~dated December 18, 2012: report:~~

27 (1) All of the out-of-class assignments should be forwarded to  
28 the Classification and Pay Unit of the department for approval.  
29 The Transactions Unit of the department should ensure that all of  
30 the proper approvals are obtained before entering assignments into  
31 the payroll system. Approvals should occur before the assignment  
32 start date.

33 (2) The Classification and Pay Unit of the department should  
34 review bargaining unit contracts before approval of the out-of-class  
35 assignment to ensure that compensation is not paid beyond the end  
36 of an assignment period or that compensation does not exceed 120  
37 days within 12 consecutive months or 365 days, or both, depending  
38 on the employee's classification.

39 (3) The justification documentation or approval sheet, or both,  
40 should include language stating that approval for managers to

1 receive out-of-class assignments occurs only after the manager  
2 already has worked out of class for 90 days.

3 (4) The Transactions Unit of the department should provide  
4 training to staff to ensure that they are aware that out-of-class pay  
5 should be adjusted for employees on nonindustrial disability  
6 insurance.

7 (5) The Transactions Unit managers or supervisors of the  
8 department should provide tools and training to staff to ensure that  
9 payment calculations are calculated correctly. The calculation  
10 should be adequately documented using a state form STD 671 and  
11 a legible calculation sheet.

12 (6) The department's Internal Audit Unit should conduct regular  
13 reviews of out-of-class assignments to determine whether the  
14 assignments are in accordance with state law, bargaining unit  
15 agreements, and department policies.

16 (7) The Department of Parks and Recreation should seek  
17 reimbursement from employees who received out-of-class  
18 payments to which they were not lawfully entitled.

19 ~~(e)~~

20 *(b) (1) The Department of Parks and Recreation shall report*  
21 *on the regulations adopted its implementation of the Controller's*  
22 *recommendations* pursuant to this section to the Legislature on or  
23 before July 31, 2014.

24 (2) The report shall be submitted in compliance with Section  
25 9795.

26 ~~(d)~~

27 *(c) This section shall remain in effect only until December 31,*  
28 *2014, and as of that date is repealed, unless a later enacted statute,*  
29 *that is enacted before December 31, 2014, deletes or extends that*  
30 *date.*

**ASSEMBLY BILL**

**No. 988**

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**Introduced by Assembly Member Jones**

February 22, 2013

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An act to amend Sections 285, 286, 296, 331.1, 331.2, 426, 672, 3051, 11701, 11704.5, 11710, and 11723 of the Vehicle Code, relating to recreational off-highway vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 988, as introduced, Jones. New Motor Vehicle Board: recreational off-highway vehicles.

Existing law establishes the New Motor Vehicle Board that regulates the activities or practices of a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, as those terms are defined by the Vehicle Code. Existing law requires licensing by the Department of Motor Vehicles to do these activities for specified types of vehicles.

Existing law defines a recreational off-highway vehicle as a motor vehicle designed by the manufacturer for operation primarily off of the highway that has a steering wheel, nonstraddle seating, a maximum speed capability of greater than 30 miles an hour, and an engine displacement equal to or less than 1,000cc.

This bill would include the activities and practices of recreational off-highway vehicle dealers, manufacturers, manufacturer branches, distributors, distributor branches, or representatives within the scope of regulation by the board.

This bill would require these entities to make application to the Department of Motor Vehicles for a license, but would exempt them from the written examination and education program requirements. The

bill would require an applicant for a dealer's license for a dealer who deals exclusively in recreational off-highway vehicles to procure and file a bond with the department in the amount of \$10,000 before a license is issued or renewed. The bill would also require the holders of these licenses and the dealers, manufacturers, manufacturer branches, distributors, distributor branches, and representatives to pay fees for the issuance and renewal of a license.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 285 of the Vehicle Code is amended to  
2 read:

3 285. "Dealer" is a person not otherwise expressly excluded by  
4 Section 286 who:

5 (a) For commission, money, or other thing of value, sells,  
6 exchanges, buys, or offers for sale, negotiates or attempts to  
7 negotiate, a sale or exchange of an interest in, a vehicle subject to  
8 registration, a motorcycle, snowmobile, ~~or~~ all-terrain vehicle, *or*  
9 *recreational off-highway vehicle* subject to identification under  
10 this code, or a trailer subject to identification pursuant to Section  
11 5014.1, or induces or attempts to induce any person to buy or  
12 exchange an interest in a vehicle and, who receives or expects to  
13 receive a commission, money, brokerage fees, profit, or any other  
14 thing of value, from either the seller or purchaser of the vehicle.

15 (b) Is engaged wholly or in part in the business of selling  
16 vehicles or buying or taking in trade, vehicles for the purpose of  
17 resale, selling, or offering for sale, or consigned to be sold, or  
18 otherwise dealing in vehicles, whether or not the vehicles are  
19 owned by the person.

20 SEC. 2. Section 286 of the Vehicle Code is amended to read:

21 286. The term "dealer" does not include any of the following:

22 (a) Insurance companies, banks, finance companies, public  
23 officials, or any other person coming into possession of vehicles  
24 in the regular course of business, who sells vehicles under a  
25 contractual right or obligation, in performance of an official duty,  
26 or in authority of any court of law, if the sale is for the purpose of  
27 saving the seller from loss or pursuant to the authority of a court.

1 (b) Persons who sell or distribute vehicles of a type subject to  
2 registration or trailers subject to identification pursuant to Section  
3 5014.1 for a manufacturer to vehicle dealers licensed under this  
4 code, or who are employed by manufacturers or distributors to  
5 promote the sale of vehicles dealt in by those manufacturers or  
6 distributors. However, any of those persons who also sell vehicles  
7 at retail are vehicle dealers and are subject to this code.

8 (c) Persons regularly employed as salespersons by vehicle  
9 dealers licensed under this code while acting within the scope of  
10 that employment.

11 (d) Persons engaged exclusively in the bona fide business of  
12 exporting vehicles or of soliciting orders for the sale and delivery  
13 of vehicles outside the territorial limits of the United States, if no  
14 federal excise tax is legally payable or refundable on any of the  
15 transactions. Persons not engaged exclusively in the bona fide  
16 business of exporting vehicles, but who are engaged in the business  
17 of soliciting orders for the sale and delivery of vehicles, outside  
18 the territorial limits of the United States are exempt from licensure  
19 as dealers only if their sales of vehicles produce less than 10  
20 percent of their total gross revenue from all business transacted.

21 (e) Persons not engaged in the purchase or sale of vehicles as  
22 a business, who dispose of any vehicle acquired and used in good  
23 faith, for their own personal use, or for use in their business, and  
24 not for the purpose of avoiding the provisions of this code.

25 (f) Persons who are engaged in the purchase, sale, or exchange  
26 of vehicles, other than motorcycles, all-terrain vehicles,  
27 *recreational off-highway vehicles*, or trailers subject to  
28 identification under this code, that are not intended for use on the  
29 highways.

30 (g) Persons temporarily retained as auctioneers solely for the  
31 purpose of disposing of vehicle stock inventories by means of  
32 public auction on behalf of the owners at the owners' place of  
33 business, or as otherwise approved by the department, if  
34 intermediate physical possession or control of, or an ownership  
35 interest in, the inventory is not conveyed to the persons so retained.

36 (h) Persons who are engaged exclusively in the business of  
37 purchasing, selling, servicing, or exchanging racing vehicles, parts  
38 for racing vehicles, and trailers designed and intended by the  
39 manufacturer to be used exclusively for carrying racing vehicles.  
40 For purposes of this subdivision, "racing vehicle" means a motor

1 vehicle of a type used exclusively in a contest of speed or in a  
2 competitive trial of speed which is not intended for use on the  
3 highways.

4 (i) A person who is a lessor.

5 (j) A person who is a renter.

6 (k) A salvage pool.

7 (l) A yacht broker who is subject to the Yacht and Ship Brokers  
8 Act (Article 2 (commencing with Section 700) of Chapter 5 of  
9 Division 3 of the Harbors and Navigation Code) and who sells  
10 used boat trailers in conjunction with the sale of a vessel.

11 (m) A licensed automobile dismantler who sells vehicles that  
12 have been reported for dismantling as provided in Section 11520.

13 (n) The Director of Corrections when selling vehicles pursuant  
14 to Section 2813.5 of the Penal Code.

15 (o) (1) Any public or private nonprofit charitable, religious, or  
16 educational institution or organization that sells vehicles if all of  
17 the following conditions are met:

18 (A) The institution or organization qualifies for state tax-exempt  
19 status under Section 23701d of the Revenue and Taxation Code,  
20 and tax-exempt status under Section 501(c)(3) of the federal  
21 Internal Revenue Code.

22 (B) The vehicles sold were donated to the nonprofit charitable,  
23 religious, or educational institution or organization.

24 (C) The vehicles subject to retail sale meet all of the applicable  
25 equipment requirements of Division 12 (commencing with Section  
26 24000) and are in compliance with emission control requirements  
27 as evidenced by the issuance of a certificate pursuant to subdivision  
28 (b) of Section 44015 of the Health and Safety Code. Under no  
29 circumstances may any institution or organization transfer the  
30 responsibility of obtaining a smog inspection certificate to the  
31 buyer of the vehicle.

32 (D) The proceeds of the sale of the vehicles are retained by that  
33 institution or organization for its charitable, religious, or  
34 educational purposes.

35 (2) An institution or organization described in paragraph (1)  
36 may sell vehicles on behalf of another institution or organization  
37 under the following conditions:

38 (A) The nonselling institution or organization meets the  
39 requirements of paragraph (1).



1 (B) The selling and nonselling institutions or organizations enter  
2 into a signed, written agreement pursuant to subparagraph (A) of  
3 paragraph (3) of subdivision (a) of Section 1660.

4 (C) The selling institution or organization transfers the proceeds  
5 from the sale of each vehicle to the nonselling institution or  
6 organization within 45 days of the sale. All net proceeds transferred  
7 to the nonselling institution or organization shall clearly be  
8 identifiable to the sale of a specific vehicle. The selling institution  
9 or organization may retain a percentage of the proceeds from the  
10 sale of a particular vehicle. However, any retained proceeds shall  
11 be used by the selling institution or organization for its charitable,  
12 religious, or educational purposes.

13 (D) At the time of transferring the proceeds, the selling  
14 institution or organization shall provide to the nonselling institution  
15 or organization, an itemized listing of the vehicles sold and the  
16 amount for which each vehicle was sold.

17 (E) In the event the selling institution or organization cannot  
18 complete a retail sale of a particular vehicle, or if the vehicle cannot  
19 be transferred as a wholesale transaction to a dealer licensed under  
20 this code, the vehicle shall be returned to the nonselling institution  
21 or organization and the written agreement revised to reflect that  
22 return. Under no circumstances may a selling institution or  
23 organization transfer or donate the vehicle to a third party that is  
24 excluded from the definition of a dealer under this section.

25 (3) An institution or organization described in this subdivision  
26 shall retain all records required to be retained pursuant to Section  
27 1660.

28 (p) A motor club, as defined in Section 12142 of the Insurance  
29 Code, that does not arrange or negotiate individual motor vehicle  
30 purchase transactions on behalf of its members but refers members  
31 to a new motor vehicle dealer for the purchase of a new motor  
32 vehicle and does not receive a fee from the dealer contingent upon  
33 the sale of the vehicle.

34 SEC. 3. Section 296 of the Vehicle Code is amended to read:

35 296. A "distributor" is any person other than a manufacturer  
36 who sells or distributes new vehicles subject to registration under  
37 this code, new trailers subject to identification pursuant to Section  
38 5014.1, or new off-highway motorcycles ~~or~~, all-terrain vehicles,  
39 *or recreational off-highway vehicles* subject to identification under  
40 this code, to dealers in this state and maintains representatives for

1 the purpose of contacting dealers or prospective dealers in this  
2 state.

3 SEC. 4. Section 331.1 of the Vehicle Code is amended to read:

4 331.1. A “franchisee” is any person who, pursuant to a  
5 franchise, receives new motor vehicles subject to registration under  
6 this code, new off-highway motorcycles, as defined in Section  
7 436, new all-terrain vehicles, as defined in Section 111, *new*  
8 *recreational off-highway vehicles, as defined in Section 500*, or  
9 new trailers subject to identification pursuant to Section 5014.1  
10 from the franchisor and who offers for sale or lease, or sells or  
11 leases the vehicles at retail or is granted the right to perform  
12 authorized warranty repairs and service, or the right to perform  
13 any combination of these activities.

14 SEC. 5. Section 331.2 of the Vehicle Code is amended to read:

15 331.2. A “franchisor” is any person who manufactures,  
16 assembles, or distributes new motor vehicles subject to registration  
17 under this code, new off-highway motorcycles, as defined in  
18 Section 436, new all-terrain vehicles, as defined in Section 111,  
19 *new recreational off-highway vehicles, as defined in Section 500*,  
20 or new trailers subject to identification pursuant to Section 5014.1  
21 and who grants a franchise.

22 SEC. 6. Section 426 of the Vehicle Code is amended to read:

23 426. “New motor vehicle dealer” is a dealer, as defined in  
24 Section 285, who, in addition to the requirements of that section,  
25 either acquires for resale new and unregistered motor vehicles  
26 from manufacturers or distributors of those motor vehicles or  
27 acquires for resale new off-highway motorcycles, ~~or new all-terrain~~  
28 *vehicles, or new recreational off-highway vehicles* from  
29 manufacturers or distributors of the vehicles. A distinction shall  
30 not be made, nor any different construction be given to the  
31 definition of “new motor vehicle dealer” and “dealer” except for  
32 the application of the provisions of Chapter 6 (commencing with  
33 Section 3000) of Division 2 and Section 11704.5. Sections 3001  
34 and 3003 do not, however, apply to a dealer who deals exclusively  
35 in motorcycles, all-terrain vehicles, *recreational off-highway*  
36 *vehicles*, or recreational vehicles, as defined in subdivision (a) of  
37 Section 18010 of the Health and Safety Code.

38 SEC. 7. Section 672 of the Vehicle Code is amended to read:

39 672. (a) “Vehicle manufacturer” is any person who produces  
40 from raw materials or new basic components a vehicle of a type

1 subject to registration under this code, off-highway motorcycles  
2 ~~or~~, all-terrain vehicles, *or recreational off-highway vehicles*, subject  
3 to identification under this code, or trailers subject to identification  
4 pursuant to Section 5014.1, or who permanently alters, for purposes  
5 of retail sales, new commercial vehicles by converting the vehicles  
6 into house cars that display the insignia of approval required by  
7 Section 18056 of the Health and Safety Code and any regulations  
8 issued pursuant thereto by the Department of Housing and  
9 Community Development. As used in this section, “permanently  
10 alters” does not include the permanent attachment of a camper to  
11 a vehicle.

12 (b) A vehicle manufacturer that produces a vehicle of a type  
13 subject to registration that consists of used or reconditioned parts,  
14 for the purposes of the code, is a remanufacturer, as defined in  
15 Section 507.8.

16 (c) Unless a vehicle manufacturer either grants franchises to  
17 franchisees in this state, or issues vehicle warranties directly to  
18 franchisees in this state or consumers in this state, the manufacturer  
19 shall have an established place of business or a representative in  
20 this state.

21 (d) The scope and application of this section are limited to  
22 Division 2 (commencing with Section 1500) and Division 5  
23 (commencing with Section 11100).

24 SEC. 8. Section 3051 of the Vehicle Code is amended to read:

25 3051. This chapter does not apply to any person licensed as a  
26 transporter under Article 1 (commencing with Section 11700) or  
27 as a salesperson under Article 2 (commencing with Section 11800)  
28 of Chapter 4 of Division 5, or to any licensee who is not a new  
29 motor vehicle dealer, motor vehicle manufacturer, manufacturer  
30 branch, new motor vehicle distributor, distributor branch, or  
31 representative. This chapter does not apply to transactions  
32 involving “mobilehomes,” as defined in Section 18008 of the  
33 Health and Safety Code, “recreational vehicles,” as defined in  
34 subdivision (b) of Section 18010 of the Health and Safety Code,  
35 truck campers, “commercial coaches,” as defined in Section  
36 18001.8 of the Health and Safety Code, or off-highway motor  
37 vehicles subject to identification, as defined in Section 38012,  
38 except off-highway motorcycles, as defined in Section 436, ~~and~~  
39 all-terrain vehicles, as defined in Section 111, *and recreational*  
40 *off-highway vehicles, as defined in Section 500.* Except as

1 otherwise provided in this chapter, this chapter applies to a new  
2 motor vehicle dealer, a dealer of new recreational vehicles, as  
3 defined in subdivision (a) of Section 18010 of the Health and  
4 Safety Code, except a dealer who deals exclusively in truck  
5 campers, a vehicle manufacturer as defined in Section 672, a  
6 manufacturer branch as defined in Section 389, a distributor as  
7 defined in Section 296, a distributor branch as defined in Section  
8 297, a representative as defined in Section 512, or an applicant  
9 therefor.

10 SEC. 9. Section 11701 of the Vehicle Code is amended to read:

11 11701. Every manufacturer, manufacturer branch,  
12 remanufacturer, remanufacturer branch, distributor, distributor  
13 branch, transporter, or dealer of vehicles of a type subject to  
14 registration, or snowmobiles, motorcycles, all-terrain vehicles,  
15 *recreational off-highway vehicles*, or trailers of a type subject to  
16 identification, shall make application to the department for a license  
17 containing a general distinguishing number. The applicant shall  
18 submit proof of his or her status as a bona fide manufacturer,  
19 manufacturer branch, remanufacturer, remanufacturer branch,  
20 distributor, distributor branch, transporter, or dealer as may  
21 reasonably be required by the department.

22 SEC. 10. Section 11704.5 of the Vehicle Code is amended to  
23 read:

24 11704.5. (a) Except as provided in subdivision (e), every  
25 person who applies for a dealer's license pursuant to Section 11701  
26 for the purpose of transacting sales of used vehicles on a retail or  
27 wholesale basis only shall be required to take and successfully  
28 complete a written examination prepared and administered by the  
29 department before a license may be issued. The examination shall  
30 include, but need not be limited to, all of the following laws and  
31 subjects:

32 (1) Division 12 (commencing with Section 24000), relating to  
33 equipment of vehicles.

34 (2) Advertising.

35 (3) Odometers.

36 (4) Vehicle licensing and registration.

37 (5) Branch locations.

38 (6) Offsite sales.

39 (7) Unlawful dealer activities.

40 (8) Handling, completion, and disposition of departmental forms.

(b) Prior to the first taking of an examination under subdivision (a), every applicant shall successfully complete a preliminary educational program of not less than four hours. The program shall address, but not be limited to, all of the following topics:

(1) Chapter 2B (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code, relating to motor vehicle sales finance.

(2) Motor vehicle financing.

(3) Truth in lending.

(4) Sales and use taxes.

(5) Division 12 (commencing with Section 24000), relating to equipment of vehicles.

(6) Advertising.

(7) Odometers.

(8) Vehicle licensing and registration.

(9) Branch locations.

(10) Offsite sales.

(11) Unlawful dealer activities.

(12) Air pollution control requirements.

(13) Regulations of the Bureau of Automotive Repair.

(14) Handling, completion, and disposition of departmental forms.

(c) (1) Except as provided in paragraph (2) or (3), every dealer who is required to complete a written examination and an educational program pursuant to subdivisions (a) and (b) and who is thereafter issued a dealer's license shall successfully complete, every two years after issuance of that license, an educational program of not less than four hours that offers instruction in the subjects listed under subdivision (a) and the topics listed under subdivision (b), in order to maintain or renew that license.

(2) A dealer is not required to complete the educational program set forth in paragraph (1) if the educational program is completed by a managerial employee employed by the dealer.

(3) Paragraph (1) does not apply to dealers who sell vehicles on a wholesale basis only and who, in a one-year period, deal with less than 50 vehicles that are subject to registration.

(d) Instruction described in subdivisions (b) and (c) may be provided by generally accredited educational institutions, private vocational schools, and educational programs and seminars offered by professional societies, organizations, trade associations, and

1 other educational and technical programs that meet the  
2 requirements of this section or by the department.

3 (e) This section does not apply to any of the following:

4 (1) An applicant for a new vehicle dealer's license or any  
5 employee of that dealer.

6 (2) A person who holds a valid license as an automobile  
7 dismantler, an employee of that dismantler, or an applicant for an  
8 automobile dismantler's license.

9 (3) An applicant for a motorcycle only dealer's license or any  
10 employee of that dealer.

11 (4) An applicant for a trailer only dealer's license or any  
12 employee of that dealer.

13 (5) An applicant for an all-terrain only dealer's license or any  
14 employee of that dealer.

15 (6) *An applicant for a recreational off-highway vehicle only*  
16 *dealer's license or any employee of that dealer.*

17 SEC. 11. Section 11710 of the Vehicle Code is amended to  
18 read:

19 11710. (a) Before any dealer's or remanufacturer's license is  
20 issued or renewed by the department to any applicant therefor, the  
21 applicant shall procure and file with the department a bond  
22 executed by an admitted surety insurer, approved as to form by  
23 the Attorney General, and conditioned that the applicant shall not  
24 practice any fraud or make any fraudulent representation which  
25 will cause a monetary loss to a purchaser, seller, financing agency,  
26 or governmental agency.

27 (b) A dealer's bond shall be in the amount of fifty thousand  
28 dollars (\$50,000), except the bond of a dealer who deals exclusively  
29 in motorcycles or all-terrain vehicles shall be in the amount of ten  
30 thousand dollars (\$10,000). Before the license is renewed by the  
31 department, the dealer, other than a dealer who deals exclusively  
32 in motorcycles~~or~~, all-terrain vehicles, *or recreational off-highway*  
33 *vehicles*, shall procure and file a bond in the amount of fifty  
34 thousand dollars (\$50,000). A remanufacturer bond shall be in the  
35 amount of fifty thousand dollars (\$50,000).

36 (c) Liability under the bond is to remain at full value. If the  
37 amount of liability under the bond is decreased or there is  
38 outstanding a final court judgment for which the dealer or  
39 remanufacturer and sureties are liable, the dealer's or  
40 remanufacturer's license shall be automatically suspended. In order

1 to reinstate the license and special plates, the licensee shall either  
2 file an additional bond or restore the bond on file to the original  
3 amount, or shall terminate the outstanding judgment for which the  
4 dealer or remanufacturer and sureties are liable.

5 (d) A dealer's or remanufacturer's license, or renewal of the  
6 license, shall not be issued to any applicant therefor, unless and  
7 until the applicant files with the department a good and sufficient  
8 instrument, in writing, in which the applicant appoints the director  
9 as the true and lawful agent of the applicant upon whom all process  
10 may be served in any action, or actions, which may thereafter be  
11 commenced against the applicant, arising out of any claim for  
12 damages suffered by any firm, person, association, or corporation,  
13 by reason of the violation of the applicant of any of the terms and  
14 provisions of this code or any condition of the dealer's or  
15 remanufacturer's bond. The applicant shall stipulate and agree in  
16 the appointment that any process directed to the applicant, when  
17 personal service of process upon the applicant cannot be made in  
18 this state after due diligence and, in that case, is served upon the  
19 director or, in the event of the director's absence from the office,  
20 upon any employee in charge of the office of the director, shall be  
21 of the same legal force and effect as if served upon the applicant  
22 personally. The applicant shall further stipulate and agree, in  
23 writing, that the agency created by the appointment shall continue  
24 for and during the period covered by any license that may be issued  
25 and so long thereafter as the applicant may be made to answer in  
26 damages for a violation of this code or any condition of the bond.  
27 The instrument appointing the director as the agent for the applicant  
28 for service of process shall be acknowledged by the applicant  
29 before a notary public. In any case where the licensee is served  
30 with process by service upon the director, one copy of the summons  
31 and complaint shall be left with the director or in the director's  
32 office in Sacramento or mailed to the office of the director in  
33 Sacramento. A fee of five dollars (\$5) shall also be paid to the  
34 director at the time of service of the copy of the summons and  
35 complaint. Service on the director shall be a sufficient service on  
36 the licensee if a notice of service and a copy of the summons and  
37 complaint are immediately sent by registered mail by the plaintiff  
38 or the plaintiff's attorney to the licensee. A copy of the summons  
39 and complaint shall also be mailed by the plaintiff or the plaintiff's  
40 attorney to the surety on the applicant's bond at the address of the

1 surety given in the bond, postpaid and registered with request for  
2 return receipt. The director shall keep a record of all process so  
3 served upon the director, which record shall show the day and hour  
4 of service and shall retain the summons and complaint so served  
5 on file. Where the licensee is served with process by service upon  
6 the director, the licensee shall have and be allowed 30 days from  
7 and after the service within which to answer any complaint or other  
8 pleading which may be filed in the cause. However, for purposes  
9 of venue, where the licensee is served with process by service upon  
10 the director, the service is deemed to have been made upon the  
11 licensee in the county in which the licensee has or last had an  
12 established place of business.

13 SEC. 12. Section 11723 of the Vehicle Code is amended to  
14 read:

15 11723. The board may require that fees shall be paid to the  
16 department for the issuance or renewal of a license to do business  
17 as a new motor vehicle dealer, dealer branch, manufacturer,  
18 manufacturer branch, distributor, distributor branch, or  
19 representative. The fees shall be to reimburse the department for  
20 costs incurred in licensing those dealers, manufacturers,  
21 distributors, branches, and representatives and for related  
22 administrative costs incurred on behalf of the board. The board  
23 may also require that an additional fee be paid to the department  
24 when the licensee has failed to pay the fee authorized by Section  
25 3016 prior to the expiration of its occupational license and special  
26 plates and the licensee utilizes the 30-day late renewal period  
27 authorized by subdivision (c) of Section 11717.

28 This section shall not apply to dealers, manufacturers,  
29 distributors, or representatives of vehicles not subject to registration  
30 under this code, except dealers, manufacturers, manufacturer  
31 branches, distributors, distributor branches, or representatives of,  
32 off-highway motorcycles, as defined in Section 436, all-terrain  
33 vehicles, as defined in Section 111, *recreational off-highway*  
34 *vehicles, as defined in Section 500*, and trailers subject to  
35 identification pursuant to Section 5014.1.



AMENDED IN SENATE APRIL 24, 2013

**SENATE BILL**

**No. 241**

---

**Introduced by Senator Evans**  
**(Principal coauthor: Senator Jackson)**  
**(Coauthors: Senators Beall, Block, DeSaulnier, Hancock, Leno,**  
**and Liu, and Wolk)**

February 12, 2013

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An act to add Part 21 (commencing with Section 42001) to Division 2 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 241, as amended, Evans. Oil-severance *Severance* Tax Law.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose an oil *and gas* severance tax ~~on and after January 1, 2014~~, upon any ~~producer operator, as defined~~, for the privilege of severing oil *or gas* from the earth or water in this state for sale, transport, consumption, storage, profit, or use, as provided, at the rate of 9.9% of the gross value of each barrel of oil severed *the specified notes, calculated as provided*. The tax would be administered by the ~~Department of Conservation~~ *State Board of Equalization* and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would require the ~~department board~~ to deposit all tax revenues, penalties, and interest collected pursuant to these provisions into the ~~Oil Severance~~ *California Higher Education* Fund, a continuously appropriated fund created by this bill, for allocation to

the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the Department of Parks and Recreation, as provided.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, it would impose a state-mandated local program.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Part 21 (commencing with Section 42001) is*  
2     *added to Division 2 of the Revenue and Taxation Code, to read:*

3  
4             *PART 21. OIL SEVERANCE TAX LAW*

5  
6     *42001. This part shall be known and may be cited as the Oil*  
7     *Severance Tax Law.*

8     *42002. For purposes of this part, the following definitions shall*  
9     *apply:*

10    (i) *“Barrel of oil” means 42 United States gallons of 231 cubic*  
11    *inches per gallon computed at a temperature of 60 degrees*  
12    *Fahrenheit.*

13    (b) *“California Higher Education Fund” or “CHEF” means*  
14    *the fund that is created by Section 42147.*

15    (c) *“Gas” means all natural gas, including casing head gas,*  
16    *and all other hydrocarbons not defined as oil in subdivision (f).*

17    (d) *“Division” means the Division of Oil, Gas, and Geothermal*  
18    *Resources in the Department of Conservation.*

19    (e) *“In this state” means within the exterior limits of the State*  
20    *of California and includes all territory within these limits owned*

1 *by or ceded to the United States of America. “In this state”*  
2 *includes the mean high tide line to three nautical miles offshore.*

3 (f) *“Oil” means petroleum, or other crude oil, condensate,*  
4 *casing head gasoline, or other mineral oil that is mined, produced,*  
5 *or withdrawn from below the surface of the soil or water.*

6 (g) *“Operator” means a person that, by virtue of ownership,*  
7 *or under the authority of a lease or any other agreement, has the*  
8 *right to drill, operate, maintain, or control an oil or gas well in*  
9 *the earth or water in this state, including any person that takes oil*  
10 *or gas from the earth or water in this state in any manner, any*  
11 *person that owns, controls, manages, or leases any oil or gas well*  
12 *in the earth or water of this state, and any person that produces*  
13 *or extracts in any manner any oil or gas by taking it from the earth*  
14 *or water in this state; and includes the first person that acquires*  
15 *either the legal title or beneficial title to oil or gas taken from the*  
16 *earth or water in this state by the federal government or a federal*  
17 *instrumentality.*

18 (h) *“Political subdivision of the state” includes any local public*  
19 *entity, as defined in Section 900.4 of the Government Code.*

20 (i) *“Severed” or “severing” means the extraction or*  
21 *withdrawing from below the surface of the earth or water of any*  
22 *oil or gas, regardless of whether the extraction or withdrawal*  
23 *shall be by natural flow, mechanical flow, forced flow, pumping,*  
24 *or any other means employed to get the oil or gas from below the*  
25 *surface of the earth or water, and shall include the extraction or*  
26 *withdrawal by any means whatsoever of oil or gas upon which the*  
27 *tax has not been paid, from any surface reservoir, natural or*  
28 *artificial, or from a water surface.*

29 (j) *Stripper well” means a well that has been certified by the*  
30 *division as an oil well incapable of producing an average of more*  
31 *than 10 barrels of oil per day during the entire calendar month or*  
32 *a gas well that is incapable of producing more than 60,000 cubic*  
33 *feet of gas per day. Once a well has been certified as a stripper*  
34 *well, that stripper well shall remain certified as a stripper well*  
35 *until the well produces an average of more than 10 barrels of oil*  
36 *per day during an entire calendar month.*

37 (k) *“Unit of gas” means 1,000 cubic feet (mcf) measured at a*  
38 *base pressure of 15.025 pounds per square inch absolute and at*  
39 *a temperature base of 60 degrees Fahrenheit.*

1     42010. (a) (1) An oil and gas severance tax is hereby imposed  
2 upon any operator for the privilege of severing oil or gas from the  
3 earth or water in this state at the rate of 9.5% of the average price  
4 per barrel of California oil or \_\_\_\_% of the average price per unit  
5 of gas, as calculated pursuant to this section.

6     (2) (A) On or before December 1, 2013, and June 1, 2014, and  
7 on or before those dates of each year thereafter, the division shall  
8 determine the average price per barrel of California oil for the  
9 six-month period ending on the preceding October 31 and April  
10 30, respectively. The price of California oil shall be based on the  
11 first purchase price for California Midway-Sunset crude oil as  
12 determined by the United States Energy Information  
13 Administration's (EIA) First Purchase Report. In the event the  
14 EIA First Purchase Report is delayed or discontinued, the division  
15 may base its determination on other sources of first purchase prices  
16 of California oil.

17     (B) On or before December 1, 2013, and June 1, 2014, and on  
18 or before those dates of each year thereafter, the division shall  
19 determine the average price per unit of gas for the six-month period  
20 ending on the preceding October 31 and April 30, respectively.  
21 The price of gas shall be based on California's price for gas as  
22 determined by the United States Energy Information  
23 Administration's (EIA) Report. In the event the EIA Report is  
24 delayed or discontinued, the division may base its determination  
25 on other sources of city gate prices of California gas.

26     (C) The division shall notify the board of its determinations  
27 pursuant to subparagraphs (A) and (B), on or before December  
28 1, 2013, and June 1, 2014, and on or before those dates on each  
29 year thereafter.

30     (b) Any person that owns an interest, including a royalty interest,  
31 in oil or its value, is liable for the tax until it has been paid to the  
32 board.

33     42012. The tax imposed by this part shall be in addition to any  
34 other taxes imposed by law, including, without limitation, any ad  
35 valorem taxes imposed by the state, or any political subdivision  
36 of the state, or any local business license taxes that may be  
37 incurred for the privilege of severing oil or gas from the earth or  
38 water or doing business in that locality. There shall be no  
39 exemption from the payment of an ad valorem tax related to

1 *equipment, material, or other property by reason of the payment*  
2 *of the severance tax pursuant to this part.*

3 42013. (a) *The tax imposed by this part shall not be passed*  
4 *through to consumers by way of higher prices for oil, natural gas,*  
5 *gasoline, diesel, or other oil or gas consumable byproducts, such*  
6 *as propane and heating oil. The board shall monitor and, if*  
7 *necessary, investigate any instance where operators or purchasers*  
8 *of the oil or gas have attempted to gouge consumers by using the*  
9 *tax as a pretext to materially raise the price of oil, natural gas,*  
10 *gasoline, diesel, or other oil or gas consumable byproducts, such*  
11 *as propane and heating oil.*

12 (b) *The board may prescribe, adopt, and enforce rules and*  
13 *regulations relating to the administration and enforcement of this*  
14 *section.*

15 (c) *Any operator that fails to comply with this section shall pay*  
16 *a penalty in an amount specified by the board not to exceed \_\_\_\_\_*  
17 *dollars (\$\_\_\_\_\_) for each instance the operator violates this section,*  
18 *as defined by the board in the regulatory process.*

19 (d) *This section applies when not superseded by federal law.*

20 42014. *Two or more operators that are owned or controlled*  
21 *directly or indirectly, as defined in Section 25105, by the same*  
22 *interests shall be considered as a single operator for purposes of*  
23 *application of the tax prescribed in this part.*

24 42015. (a) *There shall be exempted from the imposition of the*  
25 *oil and gas severance tax imposed pursuant to this part, the*  
26 *severance of oil or gas produced by a stripper well when, as*  
27 *determined pursuant to Section 42010, the average price per barrel*  
28 *of California oil is \_\_\_\_\_ dollars (\$\_\_\_\_\_) or less, or when the*  
29 *average price per unit of gas is \_\_\_\_\_ dollars (\$\_\_\_\_\_) or less.*

30 (b) *The division shall notify the board of all wells that have*  
31 *been certified as stripper wells.*

32 42016. *There shall be exempted from the imposition of the tax*  
33 *imposed pursuant to this part all oil, gas, or both oil and gas owned*  
34 *or produced by the state or any political subdivision of the state,*  
35 *including such public entity's proprietary share of oil or gas*  
36 *produced under any unit, cooperative, or other pooling agreement.*

37 42019. *Each operator shall prepare and file with the board a*  
38 *return in the form prescribed by the board containing information*  
39 *as the board deems necessary or appropriate for the proper*  
40 *administration of this part. The return shall be filed on or before*

1 *the last day of the calendar month following the calendar quarter*  
2 *to which it relates, together with a remittance payable to the board*  
3 *for the amount of tax due for that period.*

4 42145. (a) *The board shall administer and collect the tax*  
5 *imposed by this part pursuant to the Fee Collection Procedures*  
6 *Law (Part 30 (commencing with Section 55001)). For purposes*  
7 *of this part, the references in the Fee Collection Procedures Law*  
8 *to “fee” shall include the tax imposed by this part and references*  
9 *to “feepayer” shall include any person liable for the payment of*  
10 *the tax imposed by this part.*

11 (b) *The board may prescribe, adopt, and enforce regulations*  
12 *relating to the administration and enforcement of this part,*  
13 *including, but not limited to, provisions governing collections,*  
14 *reporting, refunds, and appeals.*

15 (c) *The board may prescribe, adopt, and enforce emergency*  
16 *regulations relating to the administration and enforcement of this*  
17 *part. Any emergency regulations prescribed, adopted, or enforced*  
18 *pursuant to this section shall be adopted in accordance with*  
19 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*  
20 *3 of Title 2 of the Government Code, and, for purposes of that*  
21 *chapter, including Section 11349.6 of the Government Code, the*  
22 *adoption of these regulation is an emergency and shall be*  
23 *considered by the Office of Administrative Law as necessary for*  
24 *the immediate preservation of the public peace, health and safety,*  
25 *and general welfare.*

26 42147. (a) *All taxes, interest, penalties, and other amounts*  
27 *collected pursuant to this part, less refunds and costs of*  
28 *administration, shall be deposited into the California Higher*  
29 *Education Fund, which is hereby created in the State Treasury.*  
30 *Notwithstanding Section 13340 of the Government Code, moneys*  
31 *in the fund are continuously appropriated, without regard to fiscal*  
32 *year, as follows:*

33 (1) *Ninety-three percent of the moneys in the fund, in equal*  
34 *shares, to the Regents of the University of California, the Trustees*  
35 *of the California State University, and the Board of Governors of*  
36 *the California Community Colleges for the general support of*  
37 *those institutions.*

38 (2) *Seven percent of the moneys in the fund to the Department*  
39 *of Parks and Recreation for the maintenance and improvement of*  
40 *state parks.*

1     ***(b) Revenues, less refunds, derived pursuant to Section 42013***  
2     ***for deposit in the California Higher Education Fund pursuant to***  
3     ***this section shall be deemed “General Fund revenues,” “General***  
4     ***Fund proceeds of taxes,” and “moneys to be applied by the State***  
5     ***for the support of school districts and community college districts”***  
6     ***for purposes of Section 8 of Article XVI.***

7     ***SEC. 2. No reimbursement is required by this act pursuant to***  
8     ***Section 6 of Article XIII B of the California Constitution because***  
9     ***the only costs that may be incurred by a local agency or school***  
10    ***district will be incurred because this act creates a new crime or***  
11    ***infraction, eliminates a crime or infraction, or changes the penalty***  
12    ***for a crime or infraction, within the meaning of Section 17556 of***  
13    ***the Government Code, or changes the definition of a crime within***  
14    ***the meaning of Section 6 of Article XIII B of the California***  
15    ***Constitution.***

16  
17  
18     **All matter omitted in this version of the bill**  
19     **appears in the bill as introduced in the**  
20     **Senate, February 12, 2013. (JR11)**  
21

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1142**

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### Introduced by Assembly Member Bloom

February 22, 2013

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An act to ~~amend~~ *add* Section ~~14574~~ of 5008.9 to the Public Resources Code, relating to ~~beverage containers~~ *beaches and parks*.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1142, as amended, Bloom. ~~Beverage containers: redemption payments.~~ *State beaches and parks: smoking ban.*

*Existing law makes it an infraction for a person to smoke a cigarette, cigar, or other tobacco-related product within 25 feet of a playground or tot lot sandbox area.*

*This bill would make it an infraction for a person to smoke, as defined, a pipe, cigar, or cigarette on a state coastal beach or in a unit of the state park system, as defined. The bill would establish a state-mandated local program by creating a new crime.*

*This bill would require the Department of Parks and Recreation to develop and post signs at a state coastal beach or a unit of the state park system to provide notice of the smoking prohibition, as specified.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires a beverage container distributor to pay a~~



redemption payment to the Department of Resources Recycling and Recovery (CalRecycle) in a specified manner. CalRecycle is required to deposit those amounts in the California Beverage Container Recycling Fund, which is continuously appropriated to CalRecycle to implement the act.

~~This bill would make technical, nonsubstantive changes to the provision regarding the redemption payment.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 5008.9 is added to the Public Resources  
2     Code, to read:  
3     5008.9. (a) For purposes of this section, the following  
4     definitions apply:  
5     (1) “Cigar” has the same meaning as defined in Section 104550  
6     of the Health and Safety Code.  
7     (2) “Cigarette” has the same meaning as defined in Section  
8     104556 of the Health and Safety Code.  
9     (3) “Smoke or smoking” means the carrying of a lighted pipe,  
10    lighted cigar, or lighted cigarette, of any kind, or the lighting of  
11    a pipe, cigar, or cigarette, of any kind, including, but not limited  
12    to, tobacco or any other weed or plant.  
13    (4) “State coastal beach” means an area that is owned,  
14    operated, or under the jurisdiction of the state, an agency of the  
15    state, or a department of the state and that adjoins the ocean, a  
16    bay, or an estuary.  
17    (5) “Unit of the state park system” means an area specified in  
18    Section 5002.  
19    (b) A person shall not smoke a cigar, cigarette, or other  
20    tobacco-related product on a state coastal beach or in a unit of  
21    the state park system.  
22    (c) A person shall not dispose of used cigar, cigarette, or  
23    tobacco-related product waste within the boundaries of an area  
24    in which it is prohibited by this section.  
25    (d) A person who violates this section is guilty of an infraction  
26    and shall be punished by a fine of two hundred fifty dollars (\$250).  
27    (e) The Department of Parks and Recreation shall develop and  
28    post signs at a state coastal beach and a unit of the state park

1 *system to provide notice of the smoking prohibition set forth in*  
2 *subdivision (b). Signs shall be posted no later than January 1,*  
3 *2016.*

4 *SEC. 2. No reimbursement is required by this act pursuant to*  
5 *Section 6 of Article XIII B of the California Constitution because*  
6 *the only costs that may be incurred by a local agency or school*  
7 *district will be incurred because this act creates a new crime or*  
8 *infraction, eliminates a crime or infraction, or changes the penalty*  
9 *for a crime or infraction, within the meaning of Section 17556 of*  
10 *the Government Code, or changes the definition of a crime within*  
11 *the meaning of Section 6 of Article XIII B of the California*  
12 *Constitution.*

13 ~~SECTION 1. Section 14574 of the Public Resources Code is~~  
14 ~~amended to read:~~

15 ~~14574. (a) (1) A distributor of beverage containers shall pay~~  
16 ~~to the department the redemption payment for every beverage~~  
17 ~~container, other than a refillable beverage container, sold or~~  
18 ~~transferred to a dealer, less 1.5 percent for the distributor's~~  
19 ~~administrative costs.~~

20 ~~(2) The payment made by a distributor shall be submitted not~~  
21 ~~later than the last day of the month following the sale. The~~  
22 ~~distributor shall submit the payment in the form and manner that~~  
23 ~~the department prescribes.~~

24 ~~(b) (1) Notwithstanding subdivision (a), if a distributor displays~~  
25 ~~a pattern of operation in compliance with this division and the~~  
26 ~~regulations adopted pursuant to this division, to the satisfaction of~~  
27 ~~the department, the distributor may submit a single annual payment~~  
28 ~~of redemption payments, if the distributor's projected redemption~~  
29 ~~payment for a calendar year totals less than seventy-five thousand~~  
30 ~~dollars (\$75,000).~~

31 ~~(2) An annual redemption payment made pursuant to this~~  
32 ~~subdivision is due and payable on or before February 1 for every~~  
33 ~~beverage container sold or transferred by the distributor to a dealer~~  
34 ~~in the previous calendar year.~~

35 ~~(3) A distributor shall notify the department of its intent to~~  
36 ~~submit an annual redemption payment pursuant to this subdivision~~  
37 ~~on or before January 31 of the calendar year for which the payment~~  
38 ~~will be due.~~

113TH CONGRESS  
1ST SESSION

# H. R. 1776

To establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, to designate the Joaquin Rocks Wilderness in such counties, to designate additional components of the national wild and scenic rivers system, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2013

Mr. FARR (for himself, Mr. VALADAO, and Mr. DENHAM) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, to designate the Joaquin Rocks Wilderness in such counties, to designate additional components of the national wild and scenic rivers system, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Clear Creek National  
5       Recreation Area and Conservation Act”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) MANAGEMENT PLAN.—The term “manage-  
2           ment plan” means the Plan for the Recreation Area  
3           prepared under section 4(c).

4           (2) RECREATION AREA.—The term “Recreation  
5           Area” means the Clear Creek National Recreation  
6           Area.

7           (3) SECRETARY.—The term “Secretary” means  
8           the Secretary of the Interior.

9           (4) STATE.—The term “State” means the State  
10          of California.

11 **SEC. 3. ESTABLISHMENT OF CLEAR CREEK NATIONAL**  
12 **RECREATION AREA.**

13          (a) IN GENERAL.—To promote environmentally re-  
14 sponsible high-quality motorized and non-motorized trail  
15 based recreation, including off-highway vehicle use, scenic  
16 touring, access for hunting and gem collecting, while pro-  
17 tecting ecological, geological, scenic, cultural, and historic  
18 resources, fish and wildlife values, and other resources of  
19 the landscape, there is established the Clear Creek Na-  
20 tional Recreation Area in the State, to be managed by the  
21 Secretary.

22          (b) BOUNDARIES.—The Recreation Area shall consist  
23 of approximately 75,000 acres of Federal land in San Be-  
24 nito County and Fresno County, California, as generally

1 depicted on the map entitled “Clear Creek National Recre-  
2 ation Area” and dated July 30, 2012.

3 (c) MAP.—

4 (1) IN GENERAL.—As soon as practicable, after  
5 the date of the enactment of this Act, the Secretary  
6 shall submit a map and legal description of the  
7 Recreation Area to—

8 (A) the Committee on Natural Resources  
9 of the House of Representatives; and

10 (B) the Committee on Energy and Natural  
11 Resources of the Senate.

12 (2) AVAILABILITY.—Copies of the map sub-  
13 mitted under paragraph (1) shall be on file and  
14 available for public inspection in—

15 (A) the Office of the Director of the Bu-  
16 reau of Land Management; and

17 (B) the appropriate office of the Bureau of  
18 Land Management in California.

19 **SEC. 4. MANAGEMENT.**

20 (a) IN GENERAL.—The Secretary shall manage the  
21 Recreation Area to further the purposes described in sec-  
22 tion 3(a), in accordance with—

23 (1) this Act;

24 (2) the Federal Land Policy and Management  
25 Act of 1976 (43 U.S.C. 1701 et seq.); and

1           (3) any other applicable law.

2           (b) USES.—The Secretary shall—

3           (1) allow hiking, camping, hunting, gem col-  
4           lecting, and sightseeing and the use of motorized ve-  
5           hicles, mountain bikes, and horses on designated  
6           roads, trails, and areas;

7           (2) issue special recreation permits for motor-  
8           ized and non-motorized events; and

9           (3) reopen the Clear Creek Management Area  
10          to the uses described in this subsection as soon as  
11          practicable following the enactment of this Act and  
12          in accordance with the management guidelines out-  
13          lined in this Act and other applicable law.

14          (c) INTERIM MANAGEMENT PLAN.—The Secretary  
15          shall use the 2005 Clear Creek Management Area Travel  
16          Management Plan as modified by this Act, or by the Sec-  
17          retary to incorporate natural resource protection informa-  
18          tion not available in 2005, as the basis of an interim man-  
19          agement plan to govern motorized recreation within the  
20          Recreation Area pending the completion of the long-term  
21          management plan required in subsection (d).

22          (d) PERMANENT MANAGEMENT PLAN.—Not later  
23          than 2 years after the date of the enactment of this Act,  
24          the Secretary shall create a comprehensive management  
25          plan for the Clear Creek Recreation Area that—

1           (1) shall describe the appropriate uses and  
2 management of the Recreation Area in accordance  
3 with this Act;

4           (2) shall be prepared in consultation with—

5                 (A) appropriate Federal, State, and local  
6 agencies (including San Benito, Monterey, and  
7 Fresno Counties);

8                 (B) adjacent land owners; and

9                 (C) other stakeholders (including conserva-  
10 tion and recreational organizations);

11          (3) shall include a hazards education program  
12 to inform people entering the Recreation Area of the  
13 asbestos related risks associated with various activi-  
14 ties within the Recreation Area, including, but not  
15 limited to, off-highway vehicle recreation;

16          (4) shall include a user fee program for motor-  
17 ized vehicle use within the Recreational Area and  
18 guidelines for the use of the funds collected for the  
19 management and improvement of the Recreation  
20 Area;

21          (5) may incorporate any appropriate decisions,  
22 as determined by the Secretary, in accordance with  
23 this Act, that are contained in any management or  
24 activity plan for the area completed before the date  
25 of the enactment of this Act;

1           (6) may incorporate appropriate wildlife habitat  
2           management plans or other plans prepared for the  
3           land within or adjacent to the Recreation Area be-  
4           fore the date of the enactment of this Act, in accord-  
5           ance with this Act;

6           (7) may use information developed under any  
7           studies of land within or adjacent to the Recreation  
8           Area carried out before the date of enactment of this  
9           Act; and

10          (8) may include cooperative agreements with  
11          State or local government agencies to manage all or  
12          a portion of the recreational activities within the  
13          Recreation Area in accordance with an approved  
14          management plan and the requirements of this Act.

15          (e) ACQUISITION OF PROPERTY.—

16          (1) IN GENERAL.—The Secretary may acquire  
17          land adjacent to the National Recreation Area by  
18          purchase from willing sellers, donation, or exchange.

19          (2) MANAGEMENT.—Any land acquired under  
20          paragraph (1) shall be managed in accordance  
21          with—

22                  (A) the Federal Land Policy and Manage-  
23                  ment Act of 1976 (43 U.S.C. 1701 et seq.);

24                  (B) this Act; and



1 (C) any other applicable law (including  
2 regulations).

3 (3) IMPROVED ACCESS.—The Secretary may ac-  
4 quire by purchase from willing sellers, donation, ex-  
5 change, or easement, land, or interest in land to im-  
6 prove public safety in providing access to the Recre-  
7 ation Area.

8 (f) PRIVATE PROPERTY.—

9 (1) ACCESS TO PRIVATE PROPERTY.—

10 (A) IN GENERAL.—The Secretary shall  
11 provide landowners adequate access to in-  
12 holdings within the Recreation Area.

13 (B) INHOLDINGS.—For access purposes,  
14 private land adjacent to the Recreation Area to  
15 which there is no other practicable access ex-  
16 cept through the Recreation Area shall be man-  
17 aged as an inholding.

18 (2) USE OF PRIVATE PROPERTY.—Nothing in  
19 this Act affects the ownership, management, or  
20 other rights relating to any non-Federal land (in-  
21 cluding any interest in any non-Federal land).

22 (3) BUFFER ZONES.—Nothing in this Act cre-  
23 ates a protective perimeter or buffer zone around the  
24 Recreation Area.

1           (4) VALID RIGHTS.—Nothing in this Act affects  
2           any easements, rights-of-way, and other valid rights  
3           in existence on the date of the enactment of this  
4           Act.

5           (g) WATER RIGHT EXCLUSION.—Nothing in this  
6           Act—

7           (1) shall constitute or be construed to con-  
8           stitute either an express or implied reservation by  
9           the United States of any water or water rights with  
10          respect to the Recreation Area; or

11          (2) shall affect any water rights existing on the  
12          date of the enactment of this Act.

13          (h) HUNTING AND FISHING.—Nothing in this Act—

14          (1) limits hunting or fishing; or

15          (2) affects the authority, jurisdiction, or respon-  
16          sibility of the State to manage, control, or regulate  
17          fish and resident wildlife under State law (including  
18          regulations), including the regulation of hunting or  
19          fishing on public land managed by the Bureau of  
20          Land Management.

21          (i) MOTORIZED VEHICLES.—Except in cases in which  
22          motorized vehicles are needed for administrative purposes  
23          or to respond to an emergency, the use of motorized vehi-  
24          cles on public land in the Recreation Area shall be per-

mitted only on roads, trails, and areas designated by the management plan for the use by motorized vehicles.

(j) GRAZING.—In the Recreation Area, the grazing of livestock in areas in which grazing is allowed as of the date of the enactment of this Act shall be allowed to continue, consistent with—

(1) this Act;

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(3) any regulations promulgated by the Secretary, acting through the Director of the Bureau of Land Management.

(k) WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Recreation Area is withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patenting under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(l) FEES.—Amounts received by the Secretary under the fee structure required by subsection (c)(3)(G) shall be—

1           (1) deposited in a special account in the Treas-  
2       ury of the United States; and

3           (2) made available until expended, without fur-  
4       ther appropriation, to the Secretary for use in the  
5       Recreation Area.

6       (m) RISK STANDARD.—The National Oil and Haz-  
7       ardous Substances Pollution Contingency Plan (40 C.F.R.  
8       300), published pursuant to section 105 of the Com-  
9       prehensive Environmental Response, Compensation, and  
10      Liability Act of 1980 (42 U.S.C. 9605), shall not apply  
11      to the Secretary’s management of asbestos exposure risks  
12      faced by the public when recreating within the Clear Creek  
13      Recreation Area described in section 3(b).

14   **SEC. 5. JOAQUIN ROCKS WILDERNESS.**

15       In accordance with the Wilderness Act (16 U.S.C.  
16      1131 et seq.), the approximately 21,000 acres of Federal  
17      lands located in Fresno County and San Benito County,  
18      California, and generally depicted on a map entitled “Pro-  
19      posed Joaquin Rocks Wilderness” and dated April 16,  
20      2013, is designated as wilderness and as a component of  
21      the National Wilderness Preservation System and shall be  
22      known as the “Joaquin Rocks Wilderness”.

1 **SEC. 6. CLEAR CREEK MANAGEMENT AREA WILD AND SCE-**  
2 **NIC RIVERS.**

3 Section 3(a) of the Wild and Scenic Rivers Act (16  
4 U.S.C. 1274(a)) is amended by adding at the end the fol-  
5 lowing paragraphs:

6 “(\_\_\_\_) LARIOUS CANYON.—The approximately  
7 5.25 miles of Larious Canyon Creek from its source  
8 near Idria Peak in Section 6, R12E, T18S, to the  
9 boundary of the Clear Creek Special Recreation  
10 Management Area in Section 23, R11E, T17S.

11 “(\_\_\_\_) SAN CARLOS CREEK.—The approxi-  
12 mately 5.51 miles of the East Fork San Carlos  
13 Creek from its source near San Benito Mountain in  
14 Section 10, R12E, T18S, to the boundary of the  
15 Clear Creek Special Recreation Management Area in  
16 Section 22, R12E, T17S.

17 “(\_\_\_\_) CANTUA CREEK.—The approximately  
18 7.68 miles of Cantua Creek from its source north of  
19 Santa Rita Peak in Section 24, R12E, T18S, to the  
20 public land boundary in Section 3, R13E, T18S.

21 “(\_\_\_\_) PICACHO CREEK.—The approximately  
22 2.65 miles of Picacho Creek, from its source spring  
23 in Section 20, R12E, T18S, to its confluence with  
24 the San Benito River.

25 “(\_\_\_\_) WHITE CREEK AND TRIBUTARIES.—

1           “(A) The approximately 5.37 miles of  
2           White Creek, from its source in Section 36,  
3           R12E, T18S, to the boundary of the Clear  
4           Creek Special Recreation Management Area in  
5           Section 17, R13E, T19S.

6           “(B) The approximately 2.29 miles of the  
7           unnamed tributary of White Creek from its  
8           source just south of Spanish Lake in Section  
9           29, R13E, T18S, to its confluence with White  
10          Creek.

11          “(C) The approximately 2.45 miles of the  
12          unnamed tributary of White Creek from its  
13          source in Section 33, R13E, T18S, to its con-  
14          fluence with White Creek.”.

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